

**EXHIBIT W TO  
CISNEROS DECLARATION IN  
SUPPORT OF PLAINTIFFS'  
SUPPLEMENTAL MOTION FOR  
CLASS CERTIFICATION  
[ECF NO. 418-2]  
REDACTED VERSION**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: HIGH TECH EMPLOYEE )  
ANTITRUST LITIGATION )  
 ) No. 11 CV 2509 LHK  
THIS DOCUMENT RELATES TO: )  
ALL ACTIONS. )  
\_\_\_\_\_ )

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VIDEO DEPOSITION OF ERIC SCHMIDT

FEBRUARY 20, 2013

Reported by: Rosalie A. Kramm, CSR No. 5469, CRR

10:40:14 1 come to an end?

10:40:16 2 A. 1997.

10:40:16 3 Q. And then where did you go, sir?

10:40:18 4 A. Novell as the CEO.

10:40:20 5 Q. And when were you with Novell?

10:40:22 6 A. 1997 until 2001.

10:40:24 7 Q. And then where did you go in 2001?

10:40:26 8 A. Came here to Google.

10:40:28 9 Q. And what was your initial position with Google?

10:40:32 10 A. It's complicated. I came in as chairman for

10:40:36 11 two months, and then I became CEO for ten years. And I

10:40:43 12 was chairman on and off a bunch of times.

10:40:45 13 Q. All right. Were you on the board of directors

10:40:47 14 throughout that time period?

10:40:48 15 A. Yes, I was.

10:40:49 16 Q. And what is your current position at Google?

10:40:52 17 A. I'm now the executive chairman and member of

10:40:54 18 the board of Google.

10:40:56 19 Q. What is the executive chairman position?

10:40:59 20 A. Whatever I'd like it to be.

10:41:04 21 Q. And all right, sir.

10:41:06 22 Do you have an understanding as to what the

10:41:08 23 lawsuit that we're here is all about?

10:41:10 24 A. I do.

10:41:10 25 Q. What is your understanding of the claims that

10:41:12 1 are being made?

10:41:16 2 A. Well, I won't represent your claims. You can  
10:41:19 3 represent your claims. My understanding is that this is  
10:41:23 4 an argument over the hiring practices that existed  
10:41:27 5 between roughly 2005 and roughly 2009 between the  
10:41:31 6 companies whose lawyers are represented here in the room.

10:41:34 7 Q. And what is it about what understanding, if  
10:41:37 8 any, do you have about the nature of the hiring practices  
10:41:40 9 that are in question?

10:41:43 10 A. Well, I the the term that's generally  
10:41:46 11 used is the do not call rules, if that's what you're  
10:41:49 12 referring to.

10:41:50 13 Q. What does that mean to you, when you use that  
10:41:52 14 term?

10:41:57 15 A. It's easier if I state it as a fact rather than  
10:42:00 16 how I how it means to me.

10:42:01 17 During this period of time and, again, I  
10:42:05 18 will represent what Google did, as opposed to what the  
10:42:08 19 other companies did; they can speak for themselves. We  
10:42:11 20 had various practices, for better best best way to  
10:42:20 21 describe it is we had various practices where we would  
10:42:23 22 choose not to call and recruit people from other  
10:42:26 23 companies for various periods of time for various  
10:42:29 24 reasons.

10:42:33 25 Q. And do you have an understanding as to what the

10:42:35 1 claims are that are being made by the Plaintiffs with  
10:42:37 2 respect to those practices?

10:42:41 3 MR. RUBIN: And I'm going to instruct  
10:42:42 4 Mr. Schmidt, make sure that in any response that he  
10:42:47 5 doesn't convey privileged information. So if you can  
10:42:49 6 answer the question without conveying what lawyers have  
10:42:51 7 told you, then you should answer, but if you can't, then  
10:42:55 8 you should not answer the question.

10:42:57 9 THE WITNESS: Unfortunately, in order to answer  
10:42:58 10 your question, I have to divulge the contents of a  
10:43:01 11 conversation that was legally privileged.

10:43:04 12 BY MR. HEIMANN:

10:43:04 13 Q. All right. Do you have any other understanding  
10:43:06 14 outside of what your lawyers have told you about the  
10:43:08 15 nature of the claims that are being made?

10:43:11 16 A. No.

10:43:11 17 Q. Have you reviewed any of the pleadings that  
10:43:14 18 have been filed in the case?

10:43:17 19 A. I'm sorry. Pleadings are what?

10:43:19 20 Q. Pleadings are documents that are filed by the  
10:43:23 21 law lawyers representing the parties that are filed  
10:43:25 22 with the Court; for example, the Complaint in the case or  
10:43:28 23 motions in the case.

10:43:30 24 A. That's what I thought. Okay. The answer is  
10:43:31 25 no.

11:14:56 1 Have you had a chance to look at this?

11:14:58 2 A. I have.

11:14:59 3 Q. This is an email exchange in the same time  
11:15:01 4 frame, and is part of one we just looked at.

11:15:06 5 Do you see that?

11:15:07 6 A. I do.

11:15:08 7 Q. All right. And focusing on the concluding  
11:15:21 8 email, this is from Shona Brown to Mr. Shader with copies  
11:15:26 9 to several folks, but I don't believe to you, correct?

11:15:29 10 A. That is correct.

11:15:30 11 Q. All right. And in any event, she, in replying  
11:15:34 12 to Mr. Shader's follow up email about the subject that he  
11:15:37 13 had raised initially, says, "Just going through email"  
11:15:41 14 excuse me "Just going through mail, and I think this  
11:15:44 15 may have gotten buried in the Thanksgiving mail bag.  
11:15:48 16 Sorry. To clarify, I was not comfortable putting Good on  
11:15:51 17 a, quote, 'do not call,' close quote, list. We don't  
11:15:54 18 have such a list as we find it not practical to create  
11:15:57 19 nor to manage." Let me stop there.

11:16:00 20 Were you familiar with the term, "do not call  
11:16:02 21 list" at the time?

11:16:04 22 A. I don't I don't I have no recollection of  
11:16:06 23 this, period, so I I would know what a do not call  
11:16:11 24 list in general, but you asked it during this period. I  
11:16:13 25 don't I don't remember any of this.

11:16:16 1 Q. You don't remember the email exchange. I  
11:16:19 2 understand.

11:16:19 3 A. Well, I didn't see it. I did not see this  
11:16:22 4 email exchange at all, so

11:16:23 5 Q. You did not see the top part.

11:16:25 6 A. I did not see, to be precise, any of the first  
11:16:30 7 page. I did not see the top of the second page. All I  
11:16:34 8 saw was the "Danny, we have a new VP of business  
11:16:38 9 operations in HR."

11:16:41 10 Q. Is it correct, as far as you know, that Google  
11:16:50 11 did not have a do not call list as of this point in time?

11:16:53 12 A. I do not know.

11:16:54 13 Q. One way or the other?

11:16:55 14 A. I don't know.

11:17:01 15 Q. Do you recall any conversations, either during  
11:17:07 16 this time period or going forward in time, at Google  
11:17:10 17 about this topic of do not call list or no poaching?

11:17:17 18 A. Well, I'm I'm aware that we ultimately had a  
11:17:21 19 do not call list, and I have vague recollections of  
11:17:24 20 conversations in verbal conversations about it.

11:17:28 21 Q. What even though your recollections are  
11:17:30 22 vague, what do you recall?

11:17:32 23 A. Well, as I indicated, I remember a big  
11:17:35 24 kerfuffle involving Apple.

11:17:37 25 Q. We'll get to that.

11:17:39 1 A. Over that.

11:17:40 2 MR. RUBIN: So you don't want him to share his  
11:17:42 3 memory?

11:17:42 4 MR. HEIMANN: No, I want him to answer the  
11:17:45 5 question. I'm just telling him we'll get to it, but I  
11:17:46 6 do want to know your best recollections as you sit here.

11:17:49 7 THE WITNESS: And I remember at some point  
11:17:52 8 discussing to have some of the board members not be  
11:17:56 9 you know, their companies not be not be targeted, in  
11:17:59 10 whatever the correct term is. And that's sort of all I  
11:18:02 11 really remember.

11:18:02 12 BY MR. HEIMANN:

11:18:03 13 Q. Do you recall who you had those conversations  
11:18:05 14 with?

11:18:08 15 A. Well, again, these are very vague, but they  
11:18:10 16 would have been with Shona and/or Bill Campbell.

11:18:17 17 Q. Why would they have been with Mr. Campbell? I  
11:18:20 18 understand with Shona.

11:18:21 19 A. Bill Campbell was my coach.

11:18:24 20 Q. What does that mean?

11:18:26 21 A. Informal advisor, provide guidance to the  
11:18:29 22 manager, a coach. Understand it as a coach in other  
11:18:35 23 areas as well.

11:18:36 24 Someone I could talk to to ask questions and  
11:18:38 25 get some advice from; how to handle difficult situations.



11:18:42 1 Q. To your knowledge, at the time was he serving  
11:18:44 2 in that capacity for any other companies?

11:18:46 3 A. He was certainly playing a similar role for  
11:18:50 4 Steve Jobs.

11:18:52 5 Q. At Apple?

11:18:53 6 A. That is correct.

11:18:54 7 Q. Any other companies that you are aware of?

11:18:57 8 A. I'm sure that he was doing it in others, but he  
11:19:00 9 would have to tell you the details.

11:19:17 10 Q. Let's go to Exhibit 556.

11:20:22 11 Have you had a chance to look at this?

11:20:23 12 A. I have.

11:20:24 13 Q. This is an email exchange from August of 2004  
11:20:27 14 involving yourself and others. Do you see that?

11:20:29 15 A. I do.

11:20:30 16 Q. And shortly prior to the email exchange, Google  
11:20:35 17 had gone to an IPO; is that right?

11:20:40 18 A. We went public in August 18th, 2004. So it  
11:20:44 19 would have been two weeks before.

11:20:46 20 Q. Literally just two weeks before?

11:20:47 21 A. Literally right then.

11:20:50 22 Q. And you begin the email exchange by writing to  
11:20:52 23 Ms. Brown and to two others. Who are the two others that  
11:20:56 24 you wrote to?

11:20:57 25 A. Larry Page and Sergey Brin, who were the

11:21:00 1 co founders, and my colleagues running the company.

11:21:02 2 Q. And you wrote, "[REDACTED]"

11:21:05 3 [REDACTED]

11:21:08 4 [REDACTED]

11:21:11 5 [REDACTED]

11:21:16 6 And then dropping down to the last sentence of  
11:21:20 7 your email, "We need to address this. Apparently MSFT,"  
11:21:23 8 that's an abbreviation for Microsoft, correct?

11:21:26 9 A. That's correct.

11:21:27 10 Q. "and Yahoo have a, quote, 'bidding war,'  
11:21:29 11 close quote, approach."

11:21:32 12 Do you recall this email exchange, by the way?

11:21:34 13 A. I do not.

11:21:34 14 Q. Nonetheless, can you tell us what you meant by  
11:21:38 15 "bidding war approach"?

11:21:44 16 A. I don't recall the email, but I can tell you  
11:21:49 17 what I probably meant.

11:21:50 18 Q. Fair enough.

11:21:51 19 A. I probably meant that that Yahoo and  
11:21:54 20 Microsoft will do whatever it takes to overpay candidates  
11:22:02 21 of great talent. This this email appears to be about  
11:22:12 22 hiring new hires, and it would appear that I am concerned  
11:22:17 23 that [REDACTED]

11:22:21 24 [REDACTED]

11:22:25 25 [REDACTED]

11:22:27 1 candidates into the company. That's how I would

11:22:33 2 interpret that paragraph.

11:22:34 3 Q. Okay. And then Ms. Brown responds to your

11:22:41 4 email, as I as I read this, and she says, in part, "In

11:22:45 5 my opinion, we are clearly experiencing an intense battle

11:22:49 6 for top talent, with a win at all costs approach from a

11:22:53 7 number of our key competitors.

11:22:57 8 "Philosophically I believe we should pay to get

11:23:00 9 the talent; even overpay to a certain degree. It is a

11:23:02 10 bidding war that I believe we cannot afford to lose."

11:23:04 11 Did you agree with that at the time?

11:23:11 12 A. I don't remember this so is there a response

11:23:16 13 from me to this?

11:23:18 14 Q. Do you mean am I going to show you a response?

11:23:21 15 A. Yeah.

11:23:21 16 Q. The answer is, no, I don't have a response.

11:23:24 17 A. Then I don't I don't recall what I

11:23:25 18 thought

11:23:25 19 Q. All right.

11:23:26 20 A. at the time. I mean if there were a

11:23:28 21 response, then maybe that would clarify what I thought at

11:23:30 22 the time.

11:23:31 23 Q. If there were a response, I would definitely

11:23:33 24 show it to you.

11:23:34 25 A. Okay.

11:23:34 1 Q. She goes on to say, in part, [REDACTED]

11:23:38 2 [REDACTED]

11:23:44 3 [REDACTED]

11:23:47 4 [REDACTED]

11:23:50 5 [REDACTED]

11:23:51 6 "We also don't want to go out of alignment from

11:23:54 7 an internal equity perspective."

11:23:58 8 Recognizing that you don't recall this email,

11:24:00 9 though, do you have an understanding of what "internal

11:24:03 10 equity perspective" is referring to there?

11:24:06 11 A. Well, I can tell you what the term means if

11:24:08 12 you're an HR person.

11:24:09 13 Q. Okay.

11:24:10 14 A. Okay. And it's the definition of "internal

11:24:13 15 equity" is you don't want to be if you are an HR

11:24:16 16 person having two people in similar roles and one

11:24:21 17 having massively different compensation than the other.

11:24:23 18 Q. And in the context of the bidding war, was that

11:24:26 19 a concern?

11:24:28 20 A. It would appear to be her concern.

11:24:31 21 Q. Well, would you have shared the concern at the

11:24:33 22 time, do you think?

11:24:34 23 A. Well, again, you are asking me to think about

11:24:36 24 what I thought in August 2004 on the subject.

11:24:39 25 Q. Well, or generally what your business

11:24:42 1 philosophy is with respect to the issue, yes. That is  
11:24:46 2 something else that might answer the question.

11:24:47 3 A. Well, as a general statement, Google paid an  
11:24:50 4 enormous amount to our employees by virtue of stock  
11:24:55 5 appreciation. So by virtue of the success of the  
11:24:59 6 company, good luck, all those things, [REDACTED]

11:25:04 7 [REDACTED]

11:25:09 8 [REDACTED]

11:25:13 9 c [REDACTED] And so at this point the company has just  
11:25:18 10 gone public, and so it's like every employee has just won  
11:25:22 11 the lottery. It is this huge amount of additional  
11:25:26 12 compensation coming in.

11:25:27 13 So I think my my reaction to this period,  
11:25:31 14 this is two weeks after the IPO, [REDACTED]

11:25:34 15 [REDACTED]

11:25:38 16 [REDACTED] That's how I would have  
11:25:42 17 thought about it.

11:25:52 18 Q. Do you recall any conversations with Ms. Brown  
11:25:55 19 circa this time period about the bidding war issue that  
11:25:59 20 she raises?

11:26:00 21 A. As I said, I don't remember.

11:26:08 22 Q. Let's take a look at Exhibit 557 next.

11:26:16 23 MR. RUBIN: Let me know when you want to take a  
11:26:17 24 break.

11:26:18 25 THE WITNESS: That's fine. We'll just keep

11:30:31 1 relevant to this legal legal issue, but by this time,  
11:30:36 2 Microsoft is busy building a search engine to compete  
11:30:40 3 with us or either has has announced that they are  
11:30:43 4 going to come in and kill us with products that they  
11:30:45 5 haven't shipped yet, and so on and so on. They are  
11:30:48 6 highly competitive during this period, and that  
11:30:50 7 continues.

11:30:55 8 And I should be clear that Apple was not  
11:30:57 9 building a search engine to compete with us, and search  
11:31:01 10 was 98 or 99 percent of our revenue. That would be the  
11:31:04 11 definition of a competitor.

11:31:08 12 Q. Well, I'm really trying to get an understanding  
11:31:12 13 of this notion of friendly, because it is I'm sure you  
11:31:14 14 appreciate it is somewhat vague.

11:31:17 15 Did you consider any company that you were not  
11:31:19 16 a direct competitor with to be a friendly company?

11:31:24 17 A. No. That's not what I said.

11:31:27 18 Q. Okay. So that's why I want to get at what  
11:31:29 19 was it about the relationship with Apple, aside from the  
11:31:32 20 fact that they weren't a competitor, that made them a  
11:31:34 21 friendly company?

11:31:35 22 A. Well, start with the fact that Apple was trying  
11:31:37 23 to build great and beautiful products; that Apple at the  
11:31:42 24 time was working on a thing called WebKit, which was the  
11:31:45 25 source for Safari, which is part of an open source piece

11:31:51 1 of software which we admired. As I indicated we were  
11:31:54 2 either in conversations or we had already done a search  
11:31:57 3 deal with them, that would make them friendly. We were  
11:32:00 4 providing search services to them. So customer, partner.

11:32:03 5 The word "friendly" here can be it's  
11:32:06 6 deliberately vague. All right? There is no precise  
11:32:09 7 definition of friend or foe. In our industry these days,  
11:32:13 8 you have people who are both you have both  
11:32:17 9 competitive competition and partnering within the same  
11:32:20 10 firm now. That's a maturation of the industry.

11:32:24 11 Q. And when you say the term "friendly" is  
11:32:26 12 deliberately vague, why is that?

11:32:28 13 A. I mean I don't define the word "friendly." I'm  
11:32:31 14 just defining it how I use it.

11:32:32 15 Q. I know, but you said it was deliberately vague,  
11:32:35 16 as if somebody intended it to be a vague term.

11:32:37 17 A. That is not what I meant.

11:32:38 18 Q. What did you mean, then?

11:32:40 19 A. Okay. Well, then I will not say the word  
11:32:43 20 "deliberately." It doesn't have a precise meaning.

11:32:52 21 Q. Do you recall what, if anything, happened as a  
11:32:55 22 result of this communication between Mr. Jobs and I think  
11:33:00 23 it's Sergey Brin?

11:33:05 24 A. Well, there is there is subsequent  
11:33:07 25 correspondence about this, but in general as a general

11:33:11 1 statement, we began to look very carefully at Apple  
11:33:17 2 recruiting, and then I believe we stopped recruiting from  
11:33:21 3 that team, and maybe from all of Apple.

11:33:25 4 Q. And when did that happen, then?

11:33:26 5 A. It would be after this, during this period.

11:33:29 6 Q. Shortly after?

11:33:30 7 A. I don't recall.

11:33:32 8 Q. Let's focus on the timing, then. The email  
11:33:35 9 from Mr. Brin, assuming the date and time are correct, is  
11:33:38 10 on Sunday morning, in the early morning, 1:00 o'clock.

11:33:46 11 A. I see that, yes.

11:33:47 12 Q. And he's talking about having received a call  
11:33:49 13 from Mr. Jobs that very day. So either Saturday, during  
11:33:54 14 the day, or one would guess, rather than early Sunday  
11:33:58 15 morning. But in any event, right about the time that he  
11:34:02 16 sends the email.

11:34:03 17 A. Okay.

11:34:03 18 Q. All right? And then Ms. Brown responds even  
11:34:08 19 earlier on the day, but this time on Monday at 4:30 in  
11:34:12 20 the morning, assuming that that time is correct.

11:34:15 21 A. Well, it is highly likely that Shona was not in  
11:34:18 22 the same time zone to generate these time clocks, but it  
11:34:22 23 is perfectly possible she was traveling when she saw it.  
11:34:26 24 So those times would be California times.

11:34:27 25 Q. Okay. Well, let's go to the next exhibit,



11:34:41 1 Exhibit 561.

11:35:20 2 A. Okay.

11:35:20 3 Q. All right. Let's focus on the email at the  
11:35:22 4 top. This is from Ms. Brown to Mr. Geshuri and  
11:35:30 5 Ms. Gilbert with a copy to Stacy Sullivan.

11:35:35 6 Do you see that?

11:35:35 7 A. I do.

11:35:36 8 Q. And Mr. Geshuri at the time was what at Google?  
11:35:39 9 Do you recall?

11:35:41 10 A. Arnnon and Judy worked for Shona. And they  
11:35:45 11 were involved in human resources, recruiting, policy, et  
11:35:49 12 cetera. I don't know the specific roles of each.

11:35:53 13 Q. And do you recall who Stacy Sullivan was at the  
11:35:56 14 time at Google?

11:35:57 15 A. Stacy Sullivan was the original vice president  
11:36:00 16 or director of HR who was I believe at this point more of  
11:36:03 17 a consultant helper to Shona. So it would be fair to say  
11:36:07 18 that Arnnon, Judy, and Stacy were the brain trust that  
11:36:13 19 worked for Shona leading HR issues.

11:36:16 20 Q. And she writes in the email, "We agreed in EMG  
11:36:19 21 today that we would treat three companies in a special  
11:36:22 22 way going forward." Let me stop there.

11:36:25 23 What is what was the EMG at the time?

11:36:28 24 A. EMG is an abbreviation for "Executive  
11:36:30 25 Management Group." It is a group that I ran. And it met

11:43:20 1 me about you asked me about Steve you asked me  
11:43:23 2 about an email from what Steve said, and then you  
11:43:25 3 conflated that with Apple.

11:43:27 4 Q. Right. I did. Given Steve Jobs'  
11:43:31 5 relationship

11:43:32 6 MR. RUBIN: Let him answer.

11:43:33 7 THE WITNESS: So I would encourage you to  
11:43:35 8 ask you can ask a Steve question or an Apple question,  
11:43:39 9 but they are in fact different.

11:43:40 10 BY MR. HEIMANN:

11:43:41 11 Q. That is what I'm interested in finding out.

11:43:43 12 So are you saying that despite, for example,  
11:43:45 13 the threat that was apparently made here to go to war,  
11:43:49 14 that did not impact your view of Apple's relationship to  
11:43:53 15 Google as a friendly company.

11:43:55 16 MR. RUBIN: Objection. Mischaracterizes the  
11:43:57 17 document and testimony.

11:43:58 18 THE WITNESS: Well, as I indicated, Steve's  
11:44:03 19 alleged quote here, which of course I did not actually  
11:44:06 20 hear, but Sergey is relaying, did not deter me from  
11:44:11 21 ultimately going on the Apple board and being a very  
11:44:13 22 close friend of Steve. So the answer to your question is  
11:44:16 23 obviously not.

11:44:18 24 BY MR. HEIMANN:

11:44:19 25 Q. Well, is it fair to say that one of the reasons

11:44:24 1 that Google entered into the recruiting arrangement, or  
11:44:29 2 agreement or practice with Apple, was in response to  
11:44:33 3 Mr. Jobs' threats to go to war if you didn't?

11:44:38 4 MR. MITTELSTAEDT: Objection. Compound.

11:44:40 5 MR. RUBIN: Objection. Mischaracterizes prior  
11:44:42 6 testimony.

11:44:44 7 THE WITNESS: Okay. So the way you said that,  
11:44:46 8 the answer is no.

11:44:47 9 BY MR. HEIMANN:

11:44:49 10 Q. Is there some way in which it could be better  
11:44:54 11 phrased and the answer would be yes?

11:44:56 12 MR. MITTELSTAEDT: Objection. Argumentative.

11:44:57 13 THE WITNESS: I I can't tell you how to ask  
11:44:59 14 the question.

11:45:00 15 BY MR. HEIMANN:

11:45:00 16 Q. Let me put it this way.

11:45:02 17 Did Mr. Jobs' threats have anything to do with  
11:45:06 18 Google's deciding to treat Apple in the way you've  
11:45:10 19 already described that Google decided to treat Apple?

11:45:14 20 A. I would answer your question by saying that  
11:45:17 21 Steve was unhappy, and Steve's unhappiness absolutely  
11:45:23 22 influenced the change we made in recruiting practice, as  
11:45:28 23 you'll see later in the mail messages. You're using the  
11:45:32 24 word "threats."

11:45:33 25 Q. I'm using the word "threats" because that

11:45:36 1 appears to be what Mr. Brin characterized it as.

11:45:38 2 A. I wasn't I wasn't there. So I I can't  
11:45:39 3 speak as to the word "threats" and so forth.

11:45:42 4 The the word "threat" is very sensitive,  
11:45:44 5 because if you actually read Walter Isaacson's book about  
11:45:49 6 Steve, you'll see there's a lot of words and drama and so  
11:45:53 7 forth, using the word "threats" about Google later. So  
11:45:56 8 I'd rather speak about things that I saw and I know.

11:46:00 9 But it's fair to say that the pressure the  
11:46:04 10 pressure was put on Google by Steve personally to not  
11:46:08 11 hire three people in in a Safari team, and we  
11:46:12 12 responded to that pressure. That is absolutely true.

11:46:20 13 Q. And is it true that the ultimate response at  
11:46:22 14 least in part was that Google decided not to hire any of  
11:46:26 15 the people?

11:46:27 16 MR. RUBIN: Objection. Lacks foundation.

11:46:29 17 THE WITNESS: I don't actually know that. As I  
11:46:34 18 read the mail messages, there was a big give and take on  
11:46:38 19 that question. But I actually don't know personally who  
11:46:41 20 we hired and who we didn't out of the three.

11:46:46 21 BY MR. HEIMANN:

11:47:02 22 Q. In terms of the executive management of Google  
11:47:11 23 at this point in time, what was the nature of the  
11:47:14 24 relationship between you and the three the two  
11:47:17 25 cofounders?

11:47:19 1 A. The general term we used was the triumvirate,  
11:47:22 2 and we worked in a partnership as we do today. So each  
11:47:27 3 of us had sort of relatively overlapping roles. And a  
11:47:32 4 simple rule would be that if somebody felt strongly, the  
11:47:37 5 others couldn't couldn't just go do whatever they  
11:47:40 6 want. You have to kind of check with them. But because  
11:47:43 7 we're colleagues and friends and so forth, it worked  
11:47:46 8 pretty well.

11:47:47 9 MR. HEIMANN: Let me show you Exhibit 871 on  
11:47:52 10 this subject.

11:48:12 11 (Exhibit 871 was marked for identification.)

11:48:12 12 BY MR. HEIMANN:

11:48:13 13 Q. Let me ask you the question before you read  
11:48:14 14 this, because it will be easier to have the question in  
11:48:16 15 mind. What I want to know is whether or not this is a  
11:48:19 16 fair description of how you all functioned together at  
11:48:22 17 Google.

11:48:33 18 A. I see that I I did read read this. I can  
11:48:37 19 suggest a more accurate characterization.

11:48:40 20 Q. Sure.

11:48:41 21 A. If you go to the founders' letter, you will  
11:48:44 22 find a paragraph which is a revision of this, the public  
11:48:49 23 founders' letter. But this is roughly this is roughly  
11:48:53 24 what we were doing at the time.

11:48:55 25 Q. And did this relationship continue forward in

11:48:58 1 time?

11:48:59 2 A. Yes. It may be easier for me to just describe  
11:49:06 3 how I think it actually played out. There was a set of  
11:49:08 4 things which were largely operational which I was largely  
11:49:11 5 in charge of. Things involving product, product  
11:49:15 6 strategy, Larry and Sergey tended to work on. But we  
11:49:19 7 were all involved in each other, so there were always  
11:49:22 8 situations where we were together reviewing everything.  
11:49:28 9 And if you were to ask them, they would say, Eric worked  
11:49:33 10 on these areas, because that was his expertise, and they  
11:49:37 11 worked on theirs. That is how they would characterize  
11:49:39 12 it.

11:49:39 13 Q. How significant to Google was the workforce,  
11:49:42 14 your employees?

11:49:43 15 A. Crucial.

11:49:44 16 MR. RUBIN: Objection. Vague.

11:49:46 17 THE WITNESS: Crucial.

11:49:46 18 BY MR. HEIMANN:

11:49:46 19 Q. And was that something that the three of you  
11:49:49 20 collaborated on, would it be fair to say?

11:49:53 21 A. Of course.

11:49:55 22 MR. HEIMANN: Why don't we take a break.

11:49:56 23 THE VIDEOGRAPHER: We're now off the record at  
11:49:57 24 11:50.

11:49:58 25 (Recess was taken.)

12:03:05 1 THE VIDEOGRAPHER: We are now on the record at

12:03:06 2 12:03.

12:03:08 3 BY MR. HEIMANN:

12:03:08 4 Q. Mr. Schmidt, I asked that Exhibit 199 be put

12:03:12 5 before you.

12:03:17 6 A. I have that.

12:03:18 7 Q. Sir, have you had a chance to look it over?

12:03:20 8 A. I have.

12:03:20 9 Q. This is an email from the same time period as

12:03:22 10 the other ones we were looking at just before we broke,

12:03:26 11 February 2005. In this case it is from Mr. Campbell to

12:03:29 12 Mr. Jobs. I don't see anyone else copied on it.

12:03:33 13 But in the email he wrote in part, "I'm heading

12:03:36 14 out of town in the a.m., off to Montana, and wanted to

12:03:41 15 give you the latest of what I heard from Google after

12:03:44 16 talking to Eric Schmidt. Eric told me that he got

12:03:51 17 directly involved and firmly stopped all efforts to

12:03:53 18 recruit anyone from Apple." Let me stop there.

12:03:56 19 Is that consistent with your recollection of

12:03:58 20 what happened?

12:04:00 21 A. Well, I believe that he is overstating what we

12:04:03 22 did. I believe he is saying he is referring to stop

12:04:09 23 all efforts to recruit the members of that specific team.

12:04:13 24 Q. Why do you think that?

12:04:14 25 A. Because as far as I know we never stopped

12:08:29 1 communications between the people, because he has good  
12:08:33 2 trust relationships with me and also with Steve. So I  
12:08:36 3 think he's simply trying to be helpful.

12:08:38 4 BY MR. HEIMANN:

12:08:49 5 Q. Was the agreement with Apple about no cold  
12:08:58 6 calling related to any specific corroboration or joint  
12:09:01 7 effort at the time?

12:09:03 8 MR. RUBIN: Collaboration, you mean?

12:09:04 9 BY MR. HEIMANN:

12:09:05 10 Q. Collaboration, I'm sorry. Thank you.

12:09:09 11 A. Well, as I indicated, I believe we had a search  
12:09:11 12 deal there, and I believe that we were in we were  
12:09:15 13 discussing the maps technology there. Apple is today a  
12:09:20 14 very large customer of Google's, and until they did their  
12:09:26 15 own maps a very large customer of our maps. So we also  
12:09:29 16 today have an extremely detailed collaboration involving  
12:09:33 17 the very team that this names, because the team that this  
12:09:37 18 is referring to, which is called WebKit, is the  
12:09:39 19 foundation of the Chrome browser.

12:09:43 20 So we would have certainly anticipated some of  
12:09:48 21 that, but we would not have foreseen all of it. Exactly  
12:09:52 22 where we were, I couldn't tell you.

12:09:54 23 Q. So back to the question, was the agreement with  
12:09:55 24 Apple regarding recruiting, cold calling, related to any  
12:10:00 25 specific collaboration that existed at the time?



12:10:04 1 MR. RUBIN: Objection. Asked and answered.

12:10:05 2 THE WITNESS: As I said, I believe we had a  
12:10:07 3 search deal during that period, and I believe these other  
12:10:10 4 collaborations were at various levels of conversation.

12:10:13 5 BY MR. HEIMANN:

12:10:13 6 Q. All right. And so was the agreement limited to  
12:10:15 7 the personnel that would be relevant to those  
12:10:17 8 collaborations?

12:10:18 9 MR. RUBIN: Objection. Lacks foundation as to  
12:10:19 10 "agreement."

12:10:22 11 THE WITNESS: Okay. Again, without without  
12:10:24 12 getting too hung up on like the word "agreement" and so  
12:10:27 13 forth, my recollection is it was limited to this WebKit  
12:10:33 14 issue initially.

12:10:36 15 BY MR. HEIMANN:

12:10:37 16 Q. And how do you square that with the exhibit  
12:10:40 17 that I just showed you a moment ago, Exhibit 561?

12:10:49 18 MR. MITTELSTAEDT: Object. Argumentative.

12:10:51 19 THE WITNESS: No. I understand your question.

12:10:55 20 No, we put this in place because of the  
12:10:58 21 relationship that we wanted to build starting with the  
12:11:00 22 WebKit.

12:11:01 23 BY MR. HEIMANN:

12:11:02 24 Q. Are you is it your testimony that this  
12:11:05 25 agreement that the EMG reached was limited in some

12:11:11 1 respects to certain components of Apple, rather than  
12:11:14 2 Apple generally?

12:11:15 3 A. No. I as I indicated, this my  
12:11:18 4 recollection is this is the correct agreement. So

12:11:23 5 Q. So it was company wide in terms of Apple.

12:11:26 6 A. Company wide in terms of do not directly  
12:11:28 7 call cold call the company.

12:11:31 8 Q. And it applied to Apple and all of its  
12:11:33 9 subsidiaries, correct?

12:11:35 10 A. I would assume so.

12:11:36 11 Q. And it was not geographically limited in any  
12:11:39 12 respect?

12:11:39 13 A. As far as I can tell.

12:11:41 14 Q. Or in terms of timing?

12:11:45 15 MR. MITTELSTAEDT: Objection. Vague.

12:11:46 16 BY MR. HEIMANN:

12:11:47 17 Q. Well, were there any time limits on it?

12:11:49 18 A. No. As you know, it is now ended.

12:11:52 19 Q. I do know that.

12:11:53 20 A. Yeah.

12:11:53 21 Q. But there wasn't any time limit at the time it  
12:11:55 22 was agreed upon.

12:11:58 23 A. But, again, you are using the word "agreement."  
12:12:01 24 We sat in the equivalent of this room and decided to do  
12:12:04 25 this.

12:12:06 1 Q. Well, isn't it true that Google had an  
12:12:09 2 agreement with Apple that Google wouldn't cold call Apple  
12:12:11 3 employees and Apple wouldn't cold call Google employees;  
12:12:16 4 isn't that true?

12:12:18 5 MR. RUBIN: Objection. Lacks foundation.

12:12:19 6 THE WITNESS: Again, you are using the word  
12:12:22 7 "agreement" in a specific way.

12:12:23 8 BY MR. HEIMANN:

12:12:24 9 Q. I'm using "agreement" in the common way that  
12:12:26 10 agreement is used, just the English usage.

12:12:29 11 A. But I

12:12:30 12 MR. RUBIN: Move to strike that. So you should  
12:12:33 13 ask questions, not respond.

12:12:34 14 THE WITNESS: Well, I'm actually trying to  
12:12:35 15 answer your question as directly as possible.

12:12:37 16 BY MR. HEIMANN:

12:12:38 17 Q. Please.

12:12:39 18 A. We on our own made this agreement.

12:12:43 19 Q. And what is "this agreement"?

12:12:45 20 A. What you see in Exhibit 561.

12:12:46 21 Q. All right. So you agreed when you say  
12:12:49 22 "agreed," the EMG agreed; is that what you are saying?

12:12:53 23 A. The executives of the company, the policy of  
12:12:54 24 the company was to do what is in Exhibit 561.

12:12:58 25 Q. Okay.

12:12:58 1 A. And I and I approved it.

12:12:59 2 Q. And did Google communicate that fact to Apple?

12:13:06 3 A. I don't remember myself communicating this to  
12:13:11 4 these people.

12:13:12 5 Q. I didn't say did you do it. Did Google do it?

12:13:15 6 A. I was trying to answer your question.

12:13:17 7 I don't know of any communications aside from  
12:13:20 8 the Bill Campbell email, which I didn't know about until  
12:13:23 9 you showed it to me.

12:13:24 10 Q. You hadn't seen that one before?

12:13:26 11 A. That's a privileged question. I had not seen  
12:13:28 12 it before the privileged review.

12:13:30 13 Q. I take issue with whether it was privileged.  
12:13:33 14 Did you see that document in preparing for the  
12:13:35 15 deposition?

12:13:36 16 MR. RUBIN: Well, it is privileged. You can  
12:13:37 17 ask.

12:13:39 18 MR. HEIMANN: You can argue it is privileged,  
12:13:41 19 it doesn't mean it is privileged.

12:13:42 20 MR. RUBIN: I am asserting privilege, and I'm  
12:13:44 21 directing him not to answer that question.

12:13:45 22 THE WITNESS: So I'm directed not to answer  
12:13:46 23 that question?

12:13:47 24 MR. RUBIN: Right.

12:13:48 25 MR. HEIMANN: Only if you saw it. If you

12:13:49 1 didn't see it, you are to tell me you didn't see it.

12:13:52 2 MR. RUBIN: No.

12:13:54 3 THE WITNESS: Okay.

12:13:54 4 MR. RUBIN: He has already indicated that there  
12:13:56 5 is something related to the preparation about that email,  
12:13:58 6 so I'm directing him not to answer the question.

12:14:01 7 MR. HEIMANN: What's the basis for the  
12:14:02 8 direction?

12:14:04 9 MR. RUBIN: That it was something that that  
12:14:07 10 he that the witness has indicated that he the only  
12:14:11 11 knowledge he has of it relates to preparation.

12:14:14 12 MR. HEIMANN: What's the legal basis for the  
12:14:15 13 objection?

12:14:17 14 MR. RUBIN: Because it is work product,  
12:14:18 15 attorney client privilege.

12:14:19 16 MR. HEIMANN: Okay. Both, you claim?

12:14:21 17 MR. RUBIN: Yes.

12:14:21 18 BY MR. HEIMANN:

12:14:22 19 Q. All right. Was the understanding reciprocal on  
12:14:33 20 Apple's part?

12:14:36 21 MR. RUBIN: Objection. Lacks foundation as to  
12:14:37 22 "understanding."

12:14:38 23 THE WITNESS: I don't know what Apple's policy  
12:14:39 24 was with respect to us. But I would have I would have  
12:14:50 25 assumed that they would have done something similar, but

12:14:54 1 you characterized it as a mutual agreement between the  
12:14:56 2 two companies.

12:14:57 3 BY MR. HEIMANN:

12:14:57 4 Q. Uh huh.

12:14:58 5 A. Which is what I did not like in your question.

12:15:02 6 So I don't know if there was an agreement on the Apple  
12:15:05 7 side with this kind of specificity.

12:15:08 8 Q. Well, now you've qualified it. Do you know  
12:15:10 9 whether or not there was any agreement on Apple's side  
12:15:13 10 with respect to cold calling into Google?

12:15:17 11 MR. RUBIN: Objection. Lacks foundation as to  
12:15:18 12 "agreement."

12:15:21 13 THE WITNESS: Again, I don't know what Apple  
12:15:22 14 as a general answer, I don't know what Apple's policy  
12:15:25 15 with respect to cold calling into Google was. I didn't,  
12:15:29 16 and I don't now.

12:15:31 17 BY MR. HEIMANN:

12:15:31 18 Q. So if I put it to you that, in fact, there was  
12:15:34 19 an explicit agreement between Google and Apple not to  
12:15:37 20 cold call each others' employees, you couldn't tell me  
12:15:41 21 whether that was true or not.

12:15:42 22 A. Are you are you informing me that that's  
12:15:43 23 true?

12:15:44 24 Q. I'll show you a document in a minute that says  
12:15:46 25 that.

12:15:47 1 A. Oh, I'd love

12:15:48 2 MR. RUBIN: Objection. Objection. Lacks  
12:15:49 3 foundation.

12:15:49 4 THE WITNESS: I'm looking forward to seeing  
12:15:51 5 your document.

12:15:51 6 BY MR. HEIMANN:

12:15:52 7 Q. But the answer is, you don't know of any such  
12:15:54 8 mutual agreement between Apple and Google.

12:15:56 9 A. I don't have direct knowledge that I can  
12:15:59 10 recall.

12:16:00 11 Q. Do you have indirect knowledge that you can  
12:16:01 12 recall?

12:16:02 13 A. Okay. Again, I'm trying to answer your  
12:16:04 14 questions precisely. I don't have my guess would  
12:16:09 15 be I guess I'm not supposed to guess in a deposition.

12:16:12 16 Q. You can guess.

12:16:13 17 A. My guess would be that that they had a  
12:16:15 18 reciprocal arrangement of some kind, but I don't know the  
12:16:18 19 details.

12:16:19 20 Q. Did Mr. Brin ever tell you that he had reached  
12:16:22 21 such an agreement with Mr. Jobs?

12:16:24 22 MR. RUBIN: Objection. Lacks foundation.

12:16:26 23 THE WITNESS: I have no memory of such a  
12:16:28 24 conversation.

25 //

12:16:28 1 BY MR. HEIMANN:

12:16:41 2 Q. Again, to Exhibit 561, that's the email from  
12:16:47 3 Ms. Brown, Genentech is a company that is identified as  
12:16:53 4 one of the three companies for this special arrangement.

12:16:57 5 Why?

12:16:58 6 A. I have no I don't specifically recall the  
12:17:00 7 conversation, as I said. But I would observe that  
12:17:04 8 Genentech, Intel, and Apple that Genentech and Intel  
12:17:10 9 had board members that were board members of Google, and  
12:17:13 10 Genentech was Art Levinson was the CEO of Genentech.  
12:17:18 11 Paul Otellini was the CEO of Intel. And Apple, of  
12:17:22 12 course, I eventually got on their board, and Bill  
12:17:23 13 Campbell was a board member of Apple.

12:17:26 14 So, again, my feeling would be I don't  
12:17:29 15 precisely remember, would be that this was related and  
12:17:33 16 I vaguely remember saying that we did not want a  
12:17:37 17 situation where you had a sitting board member and we  
12:17:40 18 were cold calling into their companies.

12:17:43 19 Q. Now, at what level is that speculation and at  
12:17:47 20 what level is that an actual memory of the reason for the  
12:17:51 21 agreement with respect to Genentech?

12:17:53 22 A. It's vague enough I can't give you a precise  
12:17:56 23 answer, but I think it's probably true.

12:17:58 24 Q. Was there any other reason you can think of for  
12:18:00 25 Genentech being the subject of this agreement?



12:19:45 1 A. That is correct.

12:20:03 2 Q. Let's take a look at Exhibit 563.

12:20:34 3 Have you had a chance to read this?

12:20:35 4 A. I have.

12:20:36 5 Q. So this is an email internal to Apple from

12:20:39 6 Danielle Lambert, or Lambert, I'm not sure of the

12:20:43 7 pronunciation. Do you know who she was at the time?

12:20:47 8 A. I do not.

12:20:47 9 Q. And it is to U.S. recruiting, all at group

12:20:51 10 Apple. Do you see that?

12:20:53 11 A. I do.

12:20:53 12 Q. And it is dated February of 2005.

12:20:55 13 A. I do.

12:20:56 14 Q. The same time that the emails we were looking  
12:20:58 15 at a moment ago were dated, right?

12:21:00 16 A. Yes.

12:21:01 17 Q. And she wrote, "All, please add Google to  
12:21:04 18 your," quote, "'hands off,'" close quote, "list. We  
12:21:08 19 recently agreed not to recruit from one another. So if  
12:21:11 20 you hear of any recruiting they are doing against us,  
12:21:14 21 please be sure to let me know. Please also be sure to  
12:21:17 22 honor our side of the deal."

12:21:19 23 Do you see that?

12:21:20 24 A. I do.

12:21:20 25 Q. How do you square that with your testimony

12:21:22 1 there was not an agreement between Apple and Google?

12:21:26 2 MR. RUBIN: Objection. Lacks foundation;  
12:21:27 3 argumentative.

12:21:29 4 THE WITNESS: This is the first I've ever seen  
12:21:30 5 of this email. So I have no opinion about this email.  
12:21:33 6 My testimony stands.

12:21:36 7 BY MR. HEIMANN:

12:21:36 8 Q. Your testimony is there was no agreement  
12:21:38 9 between the two not to recruit from each other, correct?

12:21:41 10 MR. RUBIN: Objection. Mischaracterizes his  
12:21:42 11 prior testimony; lacks foundation.

12:21:45 12 THE WITNESS: I tried to be very precise, and I  
12:21:47 13 said that we made a decision, which is well characterized  
12:21:51 14 in Exhibit 561, to not directly cold call into, among  
12:21:57 15 other things, Apple.

12:21:59 16 I also told you that I don't know what Apple  
12:22:02 17 did internally. You've now presented evidence to me of  
12:22:06 18 what Apple did internally, which is news to me.

12:22:08 19 BY MR. HEIMANN:

12:22:15 20 Q. Was the actions with respect to cold calling  
12:22:21 21 communicated to Google's board of directors?

12:22:26 22 A. Well, it was certainly communicated to Bill  
12:22:28 23 Campbell, who is an advisor to the Google board of  
12:22:31 24 directors. I don't recall I don't recall a discussion  
12:22:37 25 at the board about this.

12:22:38 1 Q. Did the board of directors approve it?

12:22:41 2 MR. RUBIN: Objection. Asked and answered.

12:22:44 3 THE WITNESS: As I indicated, I have no  
12:22:45 4 recollection of such a discussion. However, it would not  
12:22:48 5 have been it would not have required a board of  
12:22:50 6 directors approval.

12:22:51 7 BY MR. HEIMANN:

12:22:53 8 Q. Do you know whether or not there is any  
12:22:56 9 discussion in the minutes of any meeting of the board of  
12:22:58 10 directors?

12:23:00 11 A. I do not.

12:23:08 12 Q. Is it something of sufficient importance that  
12:23:11 13 you think in all likelihood it would have been presented  
12:23:13 14 to the board?

12:23:14 15 MR. RUBIN: Objection. Asked and answered.

12:23:16 16 THE WITNESS: I think it's unlikely it would  
12:23:18 17 have been presented to the board.

12:23:19 18 BY MR. HEIMANN:

12:23:20 19 Q. Why do you say that?

12:23:21 20 A. We were working on more important things.

12:23:32 21 Q. I'll ask you to take a look at Exhibit 640.

12:23:59 22 This is a somewhat lengthy document. I have  
12:24:01 23 got one page and one section I'm going to focus on, but  
12:24:06 24 you should at least take enough time to to familiarize  
12:24:09 25 yourself with the document generally, and because what

12:37:10 1 A. This was, you know, as I indicated

12:37:10 2 Q. It is a long time ago. I understand that.

12:37:12 3 A. Eight years ago. No. This is the best I can  
12:37:15 4 recall.

12:37:15 5 Q. But I'm trying to find out whether you're  
12:37:17 6 actually recalling something now, or whether you are, as  
12:37:19 7 is natural, saying, this is what is this likely what I  
12:37:22 8 would have been thinking about and why I said this.

12:37:25 9 MR. RUBIN: Objection. Asked and answered;  
12:37:27 10 argumentative and close to badgering.

12:37:30 11 THE WITNESS: I've answered your question by  
12:37:32 12 saying that I don't recall the specific typing of this  
12:37:35 13 response, however, that my general view is what I told  
12:37:40 14 you, and I'm sure that it was my general view then, too.  
12:37:45 15 That's the best answer I can give you.

12:37:48 16 MR. HEIMANN: Fair enough. Fair enough.

12:37:59 17 Shall we break for lunch? Is that all right?

12:38:05 18 MR. RUBIN: If that's what you want to do. I  
12:38:07 19 think Eric is probably ready to keep going for a little  
12:38:09 20 while longer, but

12:38:10 21 MR. HEIMANN: We're going to go on to the end,  
12:38:12 22 so the question is only whether we eat now or wait.

12:38:15 23 THE WITNESS: I think you should go on until  
12:38:17 24 we're done, and I think we should work as hard as we can  
12:38:20 25 to be done.

12:38:20 1 MR. HEIMANN: I can't go on without lunch.

12:38:24 2 THE WITNESS: Okay, then we should have lunch.

12:38:25 3 How long do you need for lunch?

12:38:27 4 MR. HEIMANN: I don't know what is being

12:38:28 5 offered.

12:38:31 6 MR. RUBIN: We can go off the record for lunch.

12:38:33 7 THE VIDEOGRAPHER: This is the end of Video

12:38:34 8 No. 1. We're now off the record at 12:38.

12:38:38 9 (Recess was taken.)

13:14:20 10 THE VIDEOGRAPHER: We are now on the record at

13:14:23 11 1:14. This is the beginning of Video No. 2.

13:14:27 12 BY MR. HEIMANN:

13:14:28 13 Q. Mr. Schmidt, if we could go back briefly to

13:14:31 14 Exhibit 640, that is the recruiting data and policy.

13:14:35 15 A. I have it.

13:14:37 16 Q. I've been informed that according to the

13:14:38 17 metadata the author of that document is Jane Sho, S h o.

13:14:44 18 Does that name mean anything to you?

13:14:46 19 A. It does not.

13:14:47 20 Q. Okay. Did you take any steps to enforce the no

13:14:55 21 cold call policy at Google?

13:14:59 22 MR. RUBIN: Objection. Vague.

13:15:01 23 THE WITNESS: What do you mean by "steps"?

13:15:02 24 BY MR. HEIMANN:

13:15:03 25 Q. Did you do anything to enforce the policy?

13:15:06 1 A. Well, I approved it.

13:15:08 2 Q. Right. And after approving it, did you become  
13:15:10 3 involved in any way in enforcing the policy and seeing to  
13:15:13 4 it that it was carried out?

13:15:15 5 A. Not that I'm aware nothing beyond approval.

13:15:20 6 Q. Let's take a look at Exhibit 187, please.

13:16:02 7 Have you had a chance to look at that?

13:16:04 8 A. I have.

13:16:04 9 Q. Does it strike that.

13:16:05 10 Do you recall it at all?

13:16:06 11 A. No.

13:16:07 12 Q. Do you recall from time to time after the  
13:16:10 13 policy respecting Apple was put into effect receiving  
13:16:14 14 communications from Steve Jobs complaining about Google's  
13:16:18 15 recruiting into Apple?

13:16:20 16 A. I have a general recollection, but I don't  
13:16:22 17 recall the specifics.

13:16:23 18 Q. What's the extent of your general recollection?

13:16:26 19 A. That whenever there was any recruiting  
13:16:28 20 activity, we would hear from Steve one way or the other.

13:16:31 21 Q. And did he typically communicate directly to  
13:16:35 22 you about those matters?

13:16:37 23 MR. RUBIN: Objection. Lacks foundation.

13:16:41 24 THE WITNESS: He would talk to whoever he had  
13:16:43 25 spoken to the previous time on something else. So he

13:16:47 1 would speak to myself. He would speak to Bill Campbell.

13:16:50 2 For a while Alan Eustace was assigned to speak to Steve.

13:16:59 3 So it would depend.

13:17:02 4 BY MR. HEIMANN:

13:17:03 5 Q. Forgive me, I'm just not clear on your answer.

13:17:05 6 When you said "he would speak to whomever he  
13:17:08 7 had last spoken to," are you talking about Mr. Jobs would  
13:17:10 8 speak to whomever he had last spoken?

13:17:13 9 A. That's correct.

13:17:13 10 Q. What is can you explain what you mean by  
13:17:14 11 that?

13:17:15 12 A. Well, the company had interactions with Steve,  
13:17:18 13 and Steve would call whoever he had most recently spoken  
13:17:21 14 with on another subject to let them know of his  
13:17:24 15 displeasure.

13:17:25 16 Q. And that was just his idiosyncratic practice?

13:17:31 17 A. I I'm not going to judge it. So

13:17:33 18 Q. All right. That was setting aside the  
13:17:36 19 idiosyncratic, that was Mr. Jobs' apparent practice from  
13:17:41 20 what you saw and observed?

13:17:43 21 MR. RUBIN: Objection. Lacks foundation.

13:17:44 22 THE WITNESS: It is only my observation of what  
13:17:45 23 happened. I can't speculate on Steve's motivations.

13:17:51 24 Again, let me remind you that I joined the  
13:17:53 25 board about the board of Apple about at a time

13:17:56 1 in coincident with this era, this period of time.

13:17:59 2 BY MR. HEIMANN:

13:18:00 3 Q. I have it down that you joined in August of  
13:18:02 4 2006. Does that sound right?

13:18:04 5 A. That sounds good.

13:18:05 6 Q. And you were on the board up until or through  
13:18:08 7 August 2009?

13:18:09 8 A. That sounds about right.

13:18:10 9 Q. And then you went off the board of Apple?

13:18:12 10 A. That is correct.

13:18:13 11 Q. Why?

13:18:14 12 A. The conflicts between the company while I was  
13:18:20 13 on the board it started with almost no conflict, and  
13:18:24 14 then during the time I was on the board the iPhone was  
13:18:28 15 announced, and then the android product line, which is  
13:18:31 16 the primary competitor for the iPhone now, was announced,  
13:18:36 17 and I had to recuse myself under the rules, which is the  
13:18:39 18 right thing. And it got to the point where I had to  
13:18:41 19 recuse myself from too much, that I could not effectively  
13:18:45 20 contribute as an Apple board member, and it was the right  
13:18:48 21 decision to get off.

13:18:51 22 Q. All right. Sir, in this instance we're look at  
13:18:53 23 Exhibit 187, apparently Mr. Jobs brought to your  
13:18:56 24 attention his complaint about Google's recruiting into  
13:18:59 25 his iPod group.



13:19:02 1 A. I see that.

13:19:02 2 Q. All right. And I'm sorry. Maybe I already  
13:19:05 3 asked you that. Do you recall this?

13:19:07 4 A. I do not, although as I read this, it's  
13:19:10 5 probably the case that new cell phone software group is  
13:19:14 6 referring to android.

13:19:18 7 Q. All right. And then you responded to him  
13:19:23 8 fairly promptly, saying you would look into it and  
13:19:27 9 affirming or reaffirming the policy of no recruiting?

13:19:30 10 A. That is correct.

13:19:32 11 Q. If we could go next to Exhibit 250.

13:20:14 12 A. Okay.

13:20:15 13 Q. All right. Do you have any recollection of  
13:20:16 14 this email exchange?

13:20:17 15 A. No.

13:20:34 16 Q. In any event, what you've done strike that.  
13:20:36 17 The email appears to be you're forwarding to  
13:20:38 18 Mr. Jobs the information you had been provided about the  
13:20:42 19 matter that he had asked about or complained about?

13:20:44 20 A. That is correct.

13:20:50 21 MR. RUBIN: Are you referring back to the prior  
13:20:52 22 exhibit, or are you linking the two exhibits?

13:20:54 23 MR. HEIMANN: I think I did, yeah. Aren't they  
13:20:59 24 linked?

13:21:13 25 THE WITNESS: I'm going to presume that these

13:21:15 1 are two linked, but there is not a guarantee that they  
13:21:18 2 are.

13:21:19 3 MS. BROWN: I'll note for the record that the  
13:21:20 4 date on the prior exhibit, Exhibit 187, appears to be in  
13:21:24 5 February 2006, whereas the date on the Exhibit 250 is  
13:21:27 6 '07.

13:21:29 7 THE WITNESS: You are right.

13:21:30 8 BY MR. HEIMANN:

13:21:30 9 Q. So that would suggest they are not. My  
13:21:32 10 apologies.

13:21:33 11 A. Let's assume they are not. This is referring  
13:21:35 12 to some other incident, then.

13:21:37 13 Q. So in this email, I'm talking about  
13:22:11 14 Exhibit 250, and it is not clear to me who the author of  
13:22:17 15 the email is that you forwarded to Mr. Jobs, but whoever  
13:22:21 16 the author is, they reported that on this specific case  
13:22:24 17 the source or who contacted this Apple employee should  
13:22:30 18 not have and will be terminated within the hour. Do you  
13:22:32 19 see that?

13:22:33 20 A. I do.

13:22:33 21 Q. And then skipping down a bit it says, "In  
13:22:35 22 general we have a very clear," quote, "'do not call,'"  
13:22:39 23 close quote, "policy that is given to every staffing  
13:22:44 24 professional," et cetera.

13:22:45 25 Do you see that?

13:22:46 1 A. I do.

13:22:46 2 Q. Was this a matter of such importance that it  
13:22:48 3 justified termination of the person who offended the  
13:22:52 4 policy as is indicated here?

13:22:54 5 MR. RUBIN: Objection. Argumentative.

13:22:57 6 THE WITNESS: Well, as a general rule, Google  
13:23:00 7 has a set of rules that the recruiters and everyone else  
13:23:05 8 has to follow, and so I would assume reading this that  
13:23:09 9 the manager observed that the recruiter had violated the  
13:23:14 10 rules and was terminated. It was relatively it's how  
13:23:20 11 you deal with with errors in a company.

13:23:22 12 BY MR. HEIMANN:

13:23:22 13 Q. Are you suggesting that every error committed  
13:23:25 14 at Google resulted in termination?

13:23:28 15 MR. RUBIN: Objection. Mischaracterizes prior  
13:23:29 16 testimony; argumentative.

13:23:32 17 THE WITNESS: If it is a rule that you've been  
13:23:33 18 told you have to follow or you'll lose your job, sure.

13:23:36 19 BY MR. HEIMANN:

13:23:37 20 Q. And this was such a rule?

13:23:38 21 A. I don't know, but I would infer it was.

13:23:46 22 Q. Let's take a look at Exhibit 192.

13:24:08 23 A. This explains to you the origin.

13:24:22 24 Q. Right.

13:24:22 25 A. Okay. So what was your question?

13:24:25 1 Q. So you've had a chance to look at this? That's  
13:24:27 2 the first question.

13:24:28 3 A. Uh huh.

13:24:29 4 Q. This email string appears to begin with an  
13:24:31 5 email from a Google recruiter to someone at Apple.

13:24:36 6 A. That's I see that.

13:24:37 7 Q. All right. And then Steve Jobs forwards that  
13:24:41 8 email to you with the statement, "I would be very pleased  
13:24:46 9 if your recruiting department would stop doing this." Do  
13:24:49 10 you see that?

13:24:50 11 A. That is correct.

13:24:53 12 Q. And you responded to let me make sure I get  
13:25:01 13 this right.

13:25:02 14 A. I'll try to help you.

13:25:03 15 Q. Sure.

13:25:03 16 A. This is a forward where I'm forwarding Steve's  
13:25:06 17 mail almost certainly to Shona.

13:25:08 18 Q. Okay.

13:25:10 19 A. Where I say to Shona, "I believe that we have a  
13:25:12 20 no policy of recruiting from Apple." Or perhaps it is  
13:25:16 21 Arnnon. I'm sending it to either Shona or Arnnon, or  
13:25:20 22 whatever his name is, and then you can see the response  
13:25:24 23 from Arnnon to me, and then you can see the response from  
13:25:27 24 Shona to Arnnon in order.

13:25:30 25 Q. Right. So this would be so it is clear on

13:25:33 1 the record, so Arnnon's response to you is the one on  
13:25:36 2 March 8 which he writes, "on this specific case," et  
13:25:40 3 cetera.

13:25:40 4 A. That is correct. You can see he has addressed  
13:25:45 5 it to me.

13:25:45 6 Q. Yes, sir. And that is the email in which he  
13:25:48 7 says the person will be terminated within the hour?

13:25:50 8 A. Right. And you'll also see above that Shona's  
13:25:54 9 direction to Arnnon that we have a zero tolerance policy  
13:25:58 10 for violating our policies, which should answer your  
13:26:01 11 earlier question.

13:26:02 12 Q. Right. So this policy regarding recruiting  
13:26:04 13 was, as she puts it here, "a zero tolerance policy" that  
13:26:09 14 warranted immediate termination if violated.

13:26:12 15 MR. RUBIN: Objection. Mischaracterized the  
13:26:15 16 document.

13:26:15 17 THE WITNESS: Again, I'll let the document  
13:26:17 18 speak for itself. So

13:26:18 19 BY MR. HEIMANN:

13:26:19 20 Q. That's what the document says, right?

13:26:20 21 MR. RUBIN: Objection. Same objection.

13:26:22 22 THE WITNESS: "I want it clear we have a zero  
13:26:24 23 tolerance policy for violating our policies." So I think  
13:26:28 24 that's how I'd interpret it.

25 //

13:26:31 1 BY MR. HEIMANN:

13:26:32 2 Q. Right. Now, focusing again on the policy with  
13:26:40 3 respect to Apple, you've indicated in your prior  
13:26:45 4 testimony that the policy was a no cold call policy. I  
13:26:49 5 think that's the fairest way to summarize it, right?

13:26:51 6 A. Yeah, we call it a do not call policy.

13:26:53 7 Q. Do not call policy, thank you.

13:26:55 8 A. DNC.

13:26:56 9 Q. But with respect to Apple, wasn't it more than  
13:26:59 10 that, wasn't it also a do not hire unless Steve Jobs  
13:27:02 11 okays the hire?

13:27:03 12 MR. RUBIN: Objection. Argumentative; lacks  
13:27:04 13 foundation.

13:27:06 14 THE WITNESS: That is not true.

13:27:07 15 BY MR. HEIMANN:

13:27:08 16 Q. Let's take a look at Exhibit 278. Have you had  
13:27:55 17 a chance to take a look at this?

13:27:57 18 A. I do.

13:27:57 19 Q. This is an email from Mr. Eustace, Alan  
13:27:59 20 Eustace, to Steve Jobs, correct?

13:28:01 21 A. Uh huh. Yes.

13:28:03 22 Q. And who is Mr. Eustace at Google at the time?

13:28:06 23 A. Senior vice president of engineering.

13:28:08 24 Q. That is a senior position, is it not?

13:28:10 25 A. That is correct.

13:28:11 1 Q. And he copies Mr. Campbell and the two founders  
13:28:14 2 of the company as well, correct?

13:28:16 3 A. That's correct.

13:28:17 4 Q. And he says in part, "Google would like to make  
13:28:21 5 an offer to [REDACTED] " Is that how you  
13:28:26 6 pronounce it? Do you know?

13:28:28 7 A. I don't know.

13:28:28 8 Q. " to run a small engineering center in Paris.  
13:28:31 9 Bill, Larry, Sergey" Sergey, sorry, "and [REDACTED]  
13:28:35 10 believe it is important to get your blessing before  
13:28:38 11 moving forward with this offer."

13:28:39 12 Skipping down to the last paragraph, "Google's  
13:28:41 13 relationship with Apple is extremely important to us. If  
13:28:44 14 that relationship is any way threatened by this hire,  
13:28:47 15 please let me know, and we will pass on this  
13:28:50 16 opportunity."

13:28:50 17 Do you see that?

13:28:51 18 A. I do.

13:28:52 19 Q. Did you know anything about this at the time?

13:28:55 20 A. I did not. Or I should say, I don't have any  
13:29:02 21 memory of it.

13:29:06 22 Q. If we can go to Exhibit 648.

13:29:09 23 Have you had a chance to look at that?

13:29:55 24 A. I have.

13:29:55 25 Q. So this is an email chain, I'll try to

13:29:57 1 summarize it rather than read through it, in which it  
13:30:01 2 appears that Mr. Jobs had not responded to the email that  
13:30:04 3 we saw just a moment ago. I'm looking at page 2, halfway  
13:30:08 4 down it says, "Steve didn't respond to my email, but Bill  
13:30:12 5 Campbell promised to call," et cetera.

13:30:14 6 A. That's what it says.

13:30:16 7 Q. And then looking at the first page there is an  
13:30:21 8 email exchange involving whether or not Mr. Campbell had  
13:30:24 9 had a chance to talk with Mr. Jobs yet about the subject.  
13:30:27 10 Do you see that?

13:30:27 11 A. I do.

13:30:28 12 Q. And the last email is Mr. Campbell saying he is  
13:30:31 13 going to be meeting with Mr. Jobs on Sunday.

13:30:34 14 A. I see that.

13:30:35 15 Q. Okay. Refresh your memory at all about this  
13:30:38 16 incident at this point?

13:30:40 17 A. No.

13:30:41 18 Q. If we can go next, then, to Exhibit 650 no,  
13:30:48 19 I'm sorry, Exhibit 279.

13:31:14 20 A. Okay.

13:31:15 21 Q. So now what I'm showing you is the response  
13:31:16 22 that Mr. Jobs sent on the 9th of April the day after  
13:31:20 23 or maybe the very day he spoke with Mr. Campbell,  
13:31:22 24 according to Exhibit 648, in which Mr. Jobs wrote, "What  
13:31:28 25 would [REDACTED] be working on? We would have a problem



13:31:28 1 if it is related to cell phone handsets, et cetera."

13:31:31 2 Do you see that?

13:31:31 3 A. I do.

13:31:32 4 Q. And then Mr. Eustace responded to that email as  
13:31:36 5 is indicated here, "Thank you very much for responding,"  
13:31:38 6 et cetera. Do you see that?

13:31:39 7 A. I do.

13:31:40 8 Q. And if we can go next then to Exhibit 650.

13:32:19 9 A. I see that.

13:32:19 10 Q. So this begins with an email from Mr. Eustace  
13:32:21 11 to Mr. Jobs on the 25th of April, describing the desire  
13:32:23 12 to hire [REDACTED] and four people who used to work for  
13:32:27 13 him at Apple in Paris. Do you see that?

13:32:30 14 A. Uh huh.

13:32:30 15 Q. And then Mr. Jobs wrote back, "We strongly  
13:32:33 16 prefer that you not hire these guys."

13:32:34 17 Do you see that?

13:32:35 18 A. Yes.

13:32:36 19 Q. And then Mr. Eustace I'm sorry yes,  
13:32:45 20 Mr. Eustace writes to [REDACTED] relating that to him and  
13:32:48 21 indicating that "We can't risk our relationship with  
13:32:50 22 Apple to make this happen over his objection."

13:32:52 23 Do you see that?

13:32:53 24 A. I see.

13:32:54 25 Q. All right. And finally, if we go to

13:32:57 1 Exhibit 653.

13:33:29 2 A. Okay.

13:33:29 3 Q. So this is what appears to me to be the  
13:33:32 4 concluding email on the subject in which Mr. Eustace  
13:33:35 5 wrote to Mr. Jobs on May 23 of 2006, saying, among other  
13:33:38 6 things, that "Based on your strong preference that we not  
13:33:42 7 hire the ex Apple engineer, [REDACTED], and I decided not  
13:33:46 8 to open a Paris engineering center."

13:33:48 9 Do you see that?

13:33:53 10 A. I do.

13:33:53 11 Q. Once again, do you have any recollection of  
13:33:55 12 knowing about this exchange?

13:33:56 13 A. No, but I should note that we have an  
13:33:59 14 engineering center now in Paris.

13:34:02 15 Q. Glad to hear it, but the question is, how do  
13:34:04 16 you square this with the notion that the agreement with  
13:34:07 17 Apple did not involve requiring Mr. Jobs' permission for  
13:34:11 18 hiring Apple people?

13:34:12 19 MR. RUBIN: Objection. Lacks foundation.

13:34:17 20 THE WITNESS: Well, you as you can see, I  
13:34:19 21 was not copied on any of this correspondence.

13:34:21 22 BY MR. HEIMANN:

13:34:21 23 Q. I do.

13:34:22 24 A. So I was not involved in this whole  
13:34:24 25 transaction. But I stated what I what I understood

13:34:28 1 the agreement between or whatever you want to  
13:34:30 2 characterize them, that Google had about hiring Apple  
13:34:34 3 people, which is do not call, but if people approached  
13:34:36 4 us, we would pursue. In this particular case, Alan seems  
13:34:40 5 to have gone one step further for reasons that he would  
13:34:43 6 have to tell you.

13:34:44 7 (Exhibit 861 was marked for identification.)

13:34:44 8 BY MR. HEIMANN:

13:34:44 9 Q. All right. Let me ask you to take a look at  
13:34:47 10 Exhibit 861. Have you had a chance to look at that?

13:35:19 11 A. I have.

13:35:19 12 Q. This is an email internal to Apple, as I  
13:35:21 13 understand it, and the point I want to focus on is the  
13:35:25 14 originating email from Daniel Danielle, excuse me,  
13:35:28 15 Lambert to Mr. Jobs, June of 2006. And in particular,  
13:35:34 16 the second paragraph of that email, in which she said,  
13:35:38 17 "We have been diving into the search for someone to lead  
13:35:42 18 an ad sales team and surfacing some good folks. We're  
13:35:47 19 researching Google to see who's there and learn what we  
13:35:49 20 can about their backgrounds, but are not directly calling  
13:35:52 21 them directly given the agreement you and Sergey" I  
13:35:57 22 hope I'm pronouncing it correctly "struck not to  
13:36:00 23 recruit from one another." Let me stop there.

13:36:07 24 Were you aware that such an agreement had been  
13:36:09 25 reached between Mr. Jobs and Sergey Brin at Google?

13:36:13 1 A. Well, I've already indicated that there was no  
13:36:15 2 such agreement, in your terms. I don't know what Sergey  
13:36:21 3 may have said separately to Steve or what impressions he  
13:36:24 4 may have given. We I already showed you what we did.  
13:36:30 5 You showed me an email from this Danielle Lambert woman,  
13:36:33 6 who I don't know, which indicates that they were doing  
13:36:36 7 something similar for us.

13:36:39 8 Q. Well, to be fair, both that email and this  
13:36:41 9 email speak in terms of an actual agreement between the  
13:36:43 10 two companies not to recruit from each other, right?

13:36:48 11 MR. RUBIN: Objection. Argumentative; lacks  
13:36:49 12 foundation.

13:36:49 13 THE WITNESS: Well, I all I can see are the  
13:36:51 14 words on the page. So I it's very hard to interpret  
13:36:55 15 an email in the context of a different company. So  
13:36:59 16 you'd have to ask them.

13:37:18 17 BY MR. HEIMANN:

13:37:18 18 Q. Well, let's look at a Google document on this  
13:37:21 19 subject. Let's look at Exhibit 661.

13:38:01 20 My focus is on the first page of the document.

13:38:19 21 A. Okay.

13:38:19 22 Q. First of all, do you recognize the document?

13:38:21 23 A. I do not.

13:38:22 24 Q. It's a Google document, correct? It is from  
13:38:28 25 Google's business records, right?

13:38:36 1 A. I'm sorry. Are you asking me?

13:38:37 2 Q. Yes.

13:38:38 3 A. I didn't produce the document, so I don't know.

13:38:40 4 Q. When you say you, you mean you personally

13:38:42 5 didn't produce it, right?

13:38:44 6 A. I I don't know where these documents come

13:38:46 7 from.

13:38:47 8 Q. I'll tell you this document came from Google's

13:38:49 9 business records.

13:38:50 10 A. And as I asked you previously, I don't know who

13:38:53 11 wrote these documents. You told me the name of somebody

13:38:54 12 I didn't know.

13:38:54 13 Q. Right.

13:38:54 14 A. So if you could let me know who wrote it, that

13:38:56 15 would be helpful.

13:38:57 16 Q. Well, I think this document was written by

13:38:59 17 Mr. Geshuri, is it not?

13:39:02 18 MR. HARVEY: I have to double check this

13:39:03 19 document specifically.

13:39:05 20 THE WITNESS: Okay.

13:39:05 21 BY MR. HEIMANN:

13:39:06 22 Q. In any event, there is no doubt it is a Google

13:39:08 23 document, in your mind, is there?

13:39:09 24 A. Well, I would assume so, yeah.

13:39:11 25 Q. And the title of the document at the part at

13:39:13 1 the very beginning says, "Google" in big letters,

13:39:16 2 "Special Agreement Hiring Policy," right?

13:39:18 3 A. I see that.

13:39:19 4 Q. Lower left hand corner says it was a revision

13:39:22 5 from January of 2008, correct?

13:39:26 6 A. Yes, it says that.

13:39:27 7 Q. All right. If you'll take a look at the text

13:39:29 8 about halfway down on the first page, just below the line

13:39:33 9 that goes across the page, it says, "The following

13:39:36 10 companies (and by association, their subsidiaries listed

13:39:40 11 in Appendix A) have a special agreement with Google and

13:39:44 12 are part of the 'Do Not Cold Call' list."

13:39:46 13 And then there is a list of parent companies

13:39:49 14 provided there. Do you see that?

13:39:50 15 A. I do.

13:39:51 16 Q. And then it goes on to say, "For each of these

13:39:53 17 'Do Not Cold Call' companies, Google has agreed to the

13:39:57 18 following protocol."

13:39:58 19 Now, can you square that with strike that.

13:40:01 20 Doesn't that indicate to you that there were

13:40:02 21 actual agreements between Google and these companies

13:40:04 22 respecting the subject matter here?

13:40:09 23 MR. RUBIN: Objection. Lacks foundation.

13:40:12 24 THE WITNESS: I didn't write these, and I

13:40:15 25 didn't write the word "agreement." So I'm not aware of

13:40:18 1 agreements in the sense of written documents, if that's  
13:40:21 2 what your question is.

13:40:21 3 BY MR. HEIMANN:

13:40:22 4 Q. I said nothing about writing, sir.

13:40:24 5 A. Well

13:40:24 6 Q. You understand agreements don't have to be in  
13:40:26 7 writing to be agreements, right?

13:40:27 8 A. Well, again

13:40:29 9 MR. RUBIN: Objection. That's if you do  
13:40:31 10 you have another question?

13:40:32 11 BY MR. HEIMANN:

13:40:32 12 Q. That's a question.

13:40:34 13 A. What is the question?

13:40:35 14 Q. You understand, sir, that in business an  
13:40:37 15 agreement doesn't have to be in writing in order for it  
13:40:41 16 to be an agreement.

13:40:42 17 A. As a that's true. I can assure you that at  
13:40:45 18 Google everything is in writing.

13:40:46 19 Q. You don't have any gentleman's agreements at  
13:40:49 20 Google, huh?

13:40:50 21 A. They are generally a problem.

13:40:52 22 Q. So back to the question here, were you aware of  
13:40:56 23 the agreements that are specifically described here  
13:41:01 24 between Google and these companies?

13:41:03 25 MR. RUBIN: Objection. Lacks foundation.

13:41:06 1 THE WITNESS: Well, again, I'm not aware of  
13:41:07 2 agreements, period. I have previously testified that I  
13:41:12 3 was aware of do not call decisions, if you want to call  
13:41:18 4 them, with Apple, Genentech, IBM, Intel, and some of  
13:41:25 5 these I was not aware of even now.

13:41:29 6 BY MR. HEIMANN:

13:41:54 7 Q. Did the executive management group periodically  
13:41:57 8 review the no cold call policy or agreements, whatever?

13:42:04 9 MR. RUBIN: Objection. Lacks foundation to the  
13:42:08 10 extent there were agreements or whatever. I mean it  
13:42:10 11 would be easier just to call it a DNC list for clarity.

13:42:13 12 MR. HEIMANN: I choose not to call it that,  
13:42:15 13 because the documents refer to it as an agreement and as  
13:42:18 14 a list, so I think I can use them in the alternative.  
13:42:20 15 And the notion that there is no foundation for the use of  
13:42:22 16 the word "agreements" in the face of these documents is  
13:42:25 17 absurd.

13:42:26 18 MR. RUBIN: You can call it whatever you want.  
13:42:27 19 You'll be able to argue whatever you want. I'm saying  
13:42:30 20 for purposes of the deposition, I think you'll get fewer  
13:42:33 21 objections if you just call it a DNC list.

13:42:37 22 MR. HEIMANN: I'm sorry. I lost my train of  
13:42:39 23 thought there. What was the question?

13:42:51 24 (Record was read as follows: "Question: Did  
13:42:51 25 the executive management group periodically review the no



14:01:45 1 MR. RUBIN: Objection. Vague.

14:01:46 2 THE WITNESS: I don't know what Intel's policy  
14:01:48 3 with respect to recruiting Google was.

14:01:50 4 BY MR. HEIMANN:

14:01:50 5 Q. Don't you think it's likely that you did know  
14:01:52 6 at the time?

14:01:53 7 MR. RUBIN: Objection. Argumentative; calls  
14:01:55 8 for speculation.

14:01:58 9 THE WITNESS: No. I actually don't.

14:01:59 10 BY MR. HEIMANN:

14:02:01 11 Q. And why is that?

14:02:02 12 A. The relationship was unique because Paul was on  
14:02:07 13 the Google board, whereas I was not on the Intel board.  
14:02:12 14 So it is perfectly possible you could have different  
14:02:15 15 policies in two different companies. It is not  
14:02:17 16 symmetric.

14:02:18 17 Q. And the "Paul" in your answer is who?

14:02:20 18 A. Otellini.

14:02:22 19 Q. He was the CEO

14:02:24 20 A. CEO of Intel.

14:02:25 21 Q. Don't you think it likely that if there was an  
14:02:27 22 actual agreement, whether in writing or not, between  
14:02:31 23 Google and Intel about not recruiting from each others'  
14:02:35 24 employees, that you would have been aware of that?

14:02:37 25 MR. RUBIN: Objection. Argumentative; calls

14:02:39 1 for speculation; lacks foundation based on prior  
14:02:42 2 testimony.

14:02:48 3 THE WITNESS: As I previously said, we set the  
14:02:50 4 policy based on what we thought was the right way to  
14:02:53 5 treat these partners. I have no memory of ever  
14:02:58 6 discussing Intel's policy.

14:03:00 7 BY MR. HEIMANN:

14:03:01 8 Q. Did Google tell these companies what Google's  
14:03:05 9 policy was?

14:03:06 10 A. I'm sure I spoke with Paul about this at some  
14:03:09 11 point.

14:03:10 12 Q. And you don't have any recollection of him  
14:03:12 13 assuring you that Intel's practices and policies with  
14:03:15 14 Google was the same as Google's was to Intel; is that  
14:03:20 15 right?

14:03:20 16 A. That's correct. It's also it's important to  
14:03:22 17 understand that it's at these situations are  
14:03:24 18 asymmetric because at the time in question Google was  
14:03:28 19 growing very, very dramatically, and so we were certainly  
14:03:34 20 hiring lots of people from the Valley; whereas the other  
14:03:36 21 companies might not have been in such a growth phase. So  
14:03:40 22 they're not they're not symmetric relationships.

14:03:43 23 Q. And how does that relate to the question about  
14:03:44 24 whether or not the agreements were reciprocal?

14:03:46 25 A. Well, they don't have to be reciprocal to be

14:03:48 1 the right thing. We could decide unilaterally to do the  
14:03:52 2 right thing.

14:03:52 3 Q. And not at all be troubled that the other  
14:03:54 4 companies might be recruiting your best people right out  
14:03:57 5 from under your nose?

14:03:58 6 A. I think it's highly unlikely that Intel would  
14:04:02 7 have recruited any of our best people at the current and  
14:04:04 8 periods of time you are discussing.

14:04:06 9 Q. How about not some of your best people, then?

14:04:08 10 MR. RUBIN: I'm sorry?

14:04:09 11 BY MR. HEIMANN:

14:04:10 12 Q. Some of your other people.

14:04:11 13 A. We would argue that all of our people are our  
14:04:13 14 best people.

14:04:14 15 Q. That's right. So you think it is likely that  
14:04:16 16 they would have been recruiting at all from Google?

14:04:18 17 A. Well, Google during this period was I don't  
14:04:21 18 know how to describe it without sounding arrogant, but we  
14:04:24 19 were the hottest company in the Valley to work for during  
14:04:27 20 this period. We were winning best places to work for,  
14:04:30 21 you know, many, many other aspects.

14:04:32 22 So I think it is a fair characterization that  
14:04:36 23 we that we would generally win such a competition.

14:04:45 24 Q. So you are suggesting you didn't need it to be  
14:04:47 25 reciprocal because you were such an attractive place to

14:04:52 1 work; is that fair?

14:04:54 2 A. Well

14:04:54 3 MR. RUBIN: Objection. Argumentative;  
14:04:56 4 mischaracterizes prior testimony.

14:04:57 5 THE WITNESS: Again, these are your your  
14:04:58 6 words. What I would say is that we pride ourselves as  
14:05:01 7 being the best place to work and we believe the best  
14:05:03 8 people want to work at the best place, and we believe  
14:05:06 9 that they should work at Google. Our position is quite  
14:05:09 10 clear.

14:05:10 11 BY MR. HEIMANN:

14:05:10 12 Q. What is your relationship with Mr. Otellini?

14:05:12 13 A. I think it's good as personal friends, and  
14:05:15 14 she and he remains a board member.

14:05:21 15 MR. MITTELSTAEDT: Remains a what?

14:05:25 16 MS. BROWN: Board member.

14:05:25 17 BY MR. HEIMANN:

14:05:26 18 Q. Let's take a look at some documents. Start  
14:05:28 19 with Exhibit 651.

14:06:03 20 A. Okay.

14:06:03 21 Q. All right. Do you recognize this email?

14:06:06 22 A. No.

14:06:07 23 Q. All right. It is an email exchange in May of  
14:06:11 24 2006 between yourself and Mr. Otellini at Intel, right?

14:06:15 25 A. That's correct.

14:06:15 1 Q. And it begins with an email from Mr. Otellini  
14:06:19 2 to you, subject, recruiting, which reads in part, "Sorry  
14:06:24 3 to bother you again on this topic, but my guys are very  
14:06:28 4 troubled by Google continuing to recruit our key  
14:06:32 5 players."

14:06:33 6 And then he dropping down to the last  
14:06:38 7 sentence in the email, he says, "Can you please reinforce  
14:06:41 8 the no recruiting agreement. I would appreciate it.  
14:06:45 9 Thanks, Paul."

14:06:46 10 Do you see that?

14:06:47 11 A. I do.

14:06:47 12 Q. And then you wrote to people at Google,  
14:06:53 13 Ms. Brown and Mr. Geshuri, saying, "Can you review? I  
14:06:57 14 thought Intel was on our no hire list." Right?

14:07:01 15 A. I see that.

14:07:02 16 Q. And then Mr. Geshuri says, "I will investigate  
14:07:04 17 and provide a report on this situation." Right?

14:07:10 18 A. Yes.

14:07:11 19 Q. All right. And you don't recall any of this, I  
14:07:13 20 gather.

14:07:13 21 A. That's correct.

14:07:14 22 Q. And did you know what agreement Mr. Otellini  
14:07:24 23 was talking about at the time?

14:07:25 24 A. Well, as I said, I don't remember the the  
14:07:27 25 email, but this would be the do not call policy that we

14:07:31 1 had in place.

14:07:33 2 Q. Which he referred to as an agreement, correct?

14:07:37 3 MR. RUBIN: Objection. Calls for speculation;

14:07:41 4 foundation.

14:07:41 5 THE WITNESS: I didn't write his words.

14:07:42 6 BY MR. HEIMANN:

14:07:43 7 Q. You need to answer my question. He called it  
14:07:45 8 an agreement in this email, did he not?

14:07:47 9 A. I observed

14:07:48 10 MR. RUBIN: Objection. Lacks foundation; calls  
14:07:48 11 for speculation.

14:07:49 12 THE WITNESS: I observe he says the words  
14:07:50 13 "no recruiting agreement" in his email.

14:07:53 14 MR. RUBIN: Just to clarify, an objection by  
14:07:56 15 one, I think we have a standing understanding,  
14:07:59 16 Mr. Heimann, that an an objection by one defendant is  
14:08:02 17 incorporated for all defendants.

14:08:05 18 MR. HEIMANN: I think that has been understood  
14:08:07 19 from the beginning.

14:08:08 20 MR. RUBIN: We hadn't said it on the record  
14:08:10 21 today.

14:08:11 22 MR. HEIMANN: I don't think it's necessary.

14:08:13 23 MR. RUBIN: I'll take it back.

14:08:31 24 BY MR. HEIMANN:

14:08:32 25 Q. Let's take a look at Exhibit 458.

14:09:07 1 A. Okay.

14:09:08 2 Q. All right. Sir, this is an internal Intel  
14:09:10 3 record. As far as I know, nobody outside of Intel was  
14:09:17 4 involved. Certainly nobody from Google.

14:09:22 5 But if you'll focus on the email from Gabriel  
14:09:26 6 Thompson to Patty Murray and to Paul Otellini at the top  
14:09:29 7 of the first page, do you see that?

14:09:31 8 A. I do.

14:09:32 9 Q. Do you recognize any of the names, other than  
14:09:33 10 Mr. Otellini, by any chance?

14:09:35 11 A. I do not.

14:09:35 12 Q. And the subject of that email is, "Global  
14:09:40 13 gentleman agreement with Google." Do you see that?

14:09:43 14 A. I see it.

14:09:44 15 Q. And the question that Ms. Thompson posed was,  
14:09:48 16 "Are either of you aware of any agreement with Google  
14:09:51 17 that prohibits us from recruiting Google's senior  
14:09:54 18 talent?" Do you see that?

14:09:55 19 A. Uh huh.

14:09:56 20 Q. Mr. Otellini responded promptly, saying, "Yes."  
14:10:02 21 Do you see that?

14:10:03 22 A. I do.

14:10:05 23 Q. And if you'll next go to Exhibit 202, 202  
14:10:31 24 reproduces part of the email that I just showed you,  
14:10:34 25 including the question being posed by Ms. Thompson, "Are

14:19:19 1 dealing with, did you personally review the public, or  
14:19:19 2 did somebody screen those for you?

14:19:26 3 A. My assistant screened it, and they do that  
14:19:28 4 today. So it is perfectly possible that mail sent to my  
14:19:32 5 public address I did not see because my assistants missed  
14:19:35 6 it, but I was quite thorough at reading my private  
14:19:38 7 emails. So my presumption is if it's a private email, I  
14:19:41 8 did, in fact, read it.

14:19:43 9 Q. All right. So withdraw that.

14:20:02 10 Now, in his I know you're going to be  
14:20:05 11 thinking as your counsel, I'm beating a dead horse, but  
14:20:08 12 I'm going to have to beat it to death and then some. In  
14:20:11 13 his email to you he talks about a reciprocal  
14:20:14 14 understanding. Do you see that?

14:20:15 15 A. I see he says, "I think we should have a  
14:20:17 16 general understanding that we are not actively recruiting  
14:20:20 17 from each other."

14:20:21 18 Q. All right. Did you reach such a general  
14:20:22 19 understanding with him?

14:20:24 20 MR. RUBIN: Objection. Asked and answered.

14:20:25 21 THE WITNESS: As I've previously said, I have  
14:20:27 22 no memory of such an agreement, but it is obvious that  
14:20:30 23 we we put them on the do not call list for a while,  
14:20:33 24 from this email.

25 //



14:20:38 1 BY MR. HEIMANN:

14:20:44 2 Q. Do you know how long they remained on the list?

14:20:46 3 A. Well, as I read it, it says they were on for  
14:20:49 4 two months. I don't think that they were on very long,  
14:20:52 5 because eventually our partnerships and plans did not  
14:20:56 6 come together with Dell. So it was probably not very  
14:21:01 7 long.

14:21:38 8 Q. So I know that you're speculating to some  
14:21:40 9 extent. You think in all likelihood they came out within  
14:21:44 10 a reasonably short they came off the list within a  
14:21:46 11 reasonably short period of time?

14:21:49 12 A. Compared to some of the other companies, they  
14:21:51 13 would have been on the list for a shorter period of time,  
14:21:54 14 but I could not characterize to you what "shorter" is.

14:22:33 15 MR. HEIMANN: Let me have you take a look next  
14:22:36 16 at Exhibit 872.

14:22:37 17 (Exhibit 872 was marked for identification.)

14:22:37 18 BY MR. HEIMANN:

14:23:25 19 Q. Have you had a chance to look at that?

14:23:27 20 A. I have.

14:23:27 21 Q. Do you recall the email at all?

14:23:29 22 A. I don't recall the email, but I recall speaking  
14:23:32 23 with Meg.

14:23:33 24 Q. So you recall the conversation that is referred  
14:23:36 25 to in the email; is that fair?

14:23:38 1 A. I I recall that we had a conversation. I'm  
14:23:40 2 sure this is what I wrote after the conversation.

14:23:43 3 Q. Okay. Tell me as best you recall what was said  
14:23:46 4 in the conversation with Ms. Whitman.

14:23:48 5 A. I think the email summarizes the conversations.  
14:23:54 6 So that's I don't remember the specific subjects.  
14:23:58 7 This is as good a memory as we're going to get eight  
14:24:00 8 years ago, as I said.

14:24:02 9 Q. Well, there is a reason for me doing this that  
14:24:04 10 may not be clear to you.

14:24:06 11 A. Okay.

14:24:06 12 Q. The first question is, can you tell me of your  
14:24:08 13 own recollection what was said, and if you can't, you  
14:24:10 14 should say, "I don't know what"

14:24:13 15 A. I understand. Again, I'm trying to be helpful  
14:24:15 16 here.

14:24:16 17 I recall Meg calling me and complaining about  
14:24:19 18 hiring. I don't recall the specifics of what she said at  
14:24:23 19 all.

14:24:24 20 Q. All right. Do you do you know or do you  
14:24:26 21 recall whether eBay strike that.

14:24:29 22 Was she calling about eBay as opposed to  
14:24:32 23 PayPal?

14:24:37 24 MR. MITTELSTAEDT: Objection. Lacks  
14:24:37 25 foundation.

14:24:37 1 THE WITNESS: Because I have had the benefit of  
14:24:39 2 reading this email, I now recall that she was  
14:24:41 3 particularly incensed that a Google recruiter had called  
14:24:45 4 [REDACTED], who was her Number Two at the time.

14:24:48 5 BY MR. HEIMANN:

14:24:49 6 Q. Okay. Let me tell you something that I know  
14:24:51 7 you know already, but just to be clear.

14:24:53 8 When when you when your memory gets  
14:24:55 9 refreshed from documents, you did the right thing there,  
14:25:00 10 tell me what your memory is.

14:25:02 11 A. All right.

14:25:02 12 Q. I'm not trying to confine you in unreasonable  
14:25:05 13 ways as to how you go about answering these questions.

14:25:08 14 All right. So the answer is, she was calling  
14:25:11 15 in particular about one person who was an eBay employee,  
14:25:14 16 if I understood you correctly.

14:25:16 17 A. Yes. Again, it is there is a couple of  
14:25:20 18 things now. I went to college with Meg. Our children  
14:25:23 19 went to school together. I have socialized with Meg and  
14:25:27 20 her husband. After we went public, Meg invited me over  
14:25:31 21 for a chat to advise me how to become a better public  
14:25:36 22 company CEO. Meg has been very gracious and very helpful  
14:25:40 23 to me for many years. I'm a very big supporter of Meg.  
14:25:44 24 So if Meg calls me and she has got a problem, I'm going  
14:25:48 25 to pay attention.

14:25:49 1 I don't recall the specifics aside from what  
14:25:51 2 has been refreshed by my by this, but as I am trying  
14:25:55 3 to be helpful and say, I'm sure this is accurately  
14:25:57 4 what what was said.

14:25:59 5 Q. So the first point of that you recorded of  
14:26:03 6 the conversation was, "Google is the talk of the Valley  
14:26:07 7 because we are driving salaries up across the board.  
14:26:10 8 People are just waiting for us to fail or to fall,"  
14:26:14 9 sorry, "and get back at us for our," quote, "'unfair,'"  
14:26:18 10 close quote, "practices now."

14:26:19 11 Does that refresh your memory to any further  
14:26:22 12 extent of what she said in regards to that aspect of  
14:26:25 13 the

14:26:26 14 A. Same answer.

14:26:28 15 Q. "Our recruiting practices" continuing on in  
14:26:36 16 the email, "Our recruiting practices are," quote, "'zero  
14:26:39 17 sum,' and it appears that somewhere in Google we are  
14:26:41 18 targeting eBay to," quote, "'hurt them,'" close quote,  
14:26:45 19 "and it's the reputation that we are doing this against  
14:26:48 20 Yahoo, eBay, and MSFT," meaning Microsoft, and then in  
14:26:55 21 paren, "(I denied this)."

14:26:58 22 I gather the parenthetical is your response to  
14:27:00 23 her statement?

14:27:00 24 A. Again, I'm writing down I'm very good about  
14:27:04 25 these things. She calls with a complaint, I write down

14:27:07 1 what she said, and then I give direction at what to do.

14:27:11 2 In this case, because number two, I was quite  
14:27:14 3 sure was not true, I would have said to her, "I denied  
14:27:18 4 this," and I noted this for the record, within Google.

14:27:21 5 Q. All right. What did you understand, if you  
14:27:24 6 did, the reference to "zero sum" to mean?

14:27:28 7 A. I don't recall the context in which she she  
14:27:32 8 mentioned it. That these are Meg's thoughts, not  
14:27:36 9 mine. I'm trying to channel them accurately in the  
14:27:39 10 email, so again, it is helpful to remember that Google  
14:27:47 11 has been public for a year. Google is growing very  
14:27:50 12 rapidly. Google is the best place to work in the Valley.  
14:27:55 13 There is all this press about Google taking over the  
14:27:58 14 world, and it is clearly having an impact on partners,  
14:28:01 15 competitors, and what have you, and that is the context  
14:28:03 16 in which she probably had this feeling.

14:28:08 17 Q. Was part of the reason well, let me withdraw  
14:28:11 18 that.

14:28:11 19 Was the assertion that Google's recruiting  
14:28:16 20 activities or hiring activities were having an impact on  
14:28:20 21 salaries in the Valley an accurate one, from your point  
14:28:23 22 of view?

14:28:25 23 MR. RUBIN: Objection. Lacks foundation; calls  
14:28:26 24 for speculation.

14:28:29 25 THE WITNESS: I don't know. Because our

14:28:33 1 [REDACTED].

14:28:39 2 [REDACTED]

14:28:43 3 [REDACTED].

14:28:47 4 [REDACTED].

14:28:51 5 BY MR. HEIMANN:

14:28:51 6 Q. Well, it depends on the point in time, right?

14:28:54 7 A. I can assure you during this period of time it

14:28:56 8 was the correct behavior. As to whether people did it, I

14:28:59 9 don't know. [REDACTED]

14:29:02 10 [REDACTED]

14:29:02 11 Q. I wish I had.

14:29:06 12 But let me come back to the point. She

14:29:09 13 apparently is making the point to you that at least from

14:29:12 14 her perspective, salaries across the board in the Valley,

14:29:17 15 and I assume that's referring to the Silicon Valley, are

14:29:20 16 being driven up.

14:29:21 17 A. Yes. That would be that would have been her

14:29:22 18 point.

14:29:23 19 Q. And did you have a view on that at the time?

14:29:25 20 MR. RUBIN: Objection. Asked and answered.

14:29:26 21 THE WITNESS: As I said, I don't recall my

14:29:27 22 response on this.

14:29:28 23 BY MR. HEIMANN:

14:29:30 24 Q. Well, when you say "response," I'm not really

14:29:32 25 asking

14:29:33 1 A. Response to her.

14:29:34 2 Q. Yes, I understand. But I'm asking a different  
14:29:35 3 question.

14:29:36 4 Did you have a view as to whether or not that  
14:29:37 5 was an accurate assessment as to what was going on?

14:29:40 6 MR. RUBIN: Same objection. Asked and  
14:29:41 7 answered.

14:29:42 8 THE WITNESS: So as best I can recall in 2005,  
14:29:47 9 I would say that we were driving compensation up, but not  
14:29:51 10 salaries.

14:29:52 11 (Exhibit 873 was marked for identification.)

14:29:53 12 BY MR. HEIMANN:

14:30:16 13 Q. Let's take a look next at Exhibit 873.

14:30:36 14 A. Okay.

14:30:36 15 Q. This is an email a few days later from yourself  
14:30:38 16 to Mr. Campbell and Arnnon, again about in this case,  
14:30:47 17 eBay, PayPal, and Meg.

14:30:53 18 A. I see.

14:30:54 19 Q. Do you recall the circumstances surrounding  
14:30:56 20 your creation of this email?

14:30:57 21 A. I do not.

14:31:00 22 Q. Okay.

14:31:01 23 A. Let me observe that this is four days after  
14:31:03 24 the the previous email.

14:31:04 25 Q. Yes. You begin this email by saying, "My

14:31:11 1 summary on eBay is that the situation is bad and we can  
14:31:13 2 improve it with some simple steps. Nevertheless, we need  
14:31:17 3 to be very, very careful with the statements we make and  
14:31:20 4 the actions of our recruiters."

14:31:27 5 Was the the situation with eBay that you  
14:31:29 6 described as "bad" the result of Google's recruiting  
14:31:34 7 employees out of eBay?

14:31:36 8 MR. RUBIN: Objection. Lacks foundation.

14:31:39 9 THE WITNESS: I'm going to again, I don't  
14:31:42 10 recall the specifics. I'm going to assume that this  
14:31:44 11 is the this mail is simply a follow up to the first  
14:31:47 12 one, and it refers to the set of issues that are relayed  
14:31:53 13 in the first email.

14:31:53 14 BY MR. HEIMANN:

14:32:01 15 Q. Okay.

14:32:02 16 A. So when I say the situation is bad, it doesn't  
14:32:03 17 necessarily mean that it is factually bad on our side.  
14:32:06 18 It's perceptions drive behavior. We have a very  
14:32:10 19 important partner who is very upset. As I said, we had a  
14:32:14 20 rough call from a good friend. So

14:32:24 21 Q. Down under paragraph (3) in this Exhibit 873  
14:32:29 22 you refer to an "internal complaint about us within  
14:32:31 23 PayPal."

14:32:35 24 A. I see this.

14:32:36 25 Q. That appears to be distinct from the eBay



15:22:07 1 would have lists similar to Google's list?

15:22:12 2 A. I never thought about it.

15:22:14 3 Q. Never crossed your mind?

15:22:15 4 A. No. It is not my problem. They're we try  
15:22:22 5 to run our own company, not somebody else's. So

15:22:27 6 Q. Well

15:22:36 7 A. It is just the back division.

15:22:39 8 Q. Did you think that Google was unique in the  
15:22:42 9 Valley having a list of this sort?

15:22:47 10 A. As I said, I didn't really think about it.

15:22:51 11 Because of the unique situation that was Google was  
15:22:53 12 in, it would be perfectly reasonable from my perspective  
15:22:59 13 that such lists did not exist or they had felt that  
15:23:02 14 they had fallen off to the wayside, or what have you.

15:23:05 15 Q. And why is that?

15:23:06 16 A. Because as I indicated, during this period  
15:23:09 17 Google was unusually favorable in terms of recruiting  
15:23:11 18 talent, growth, press, great place to work. We were in  
15:23:15 19 our golden period, if you will.

15:23:26 20 Q. And how does that relate to the notion of  
15:23:29 21 thinking that Google was unique in having this list and  
15:23:32 22 not knowing about any other companies similarly situated,  
15:23:35 23 or being similarly situated?

15:23:40 24 A. Again, your question implies that I should have  
15:23:43 25 been thinking about other companies.

15:23:44 1 Q. No. No. No. My question doesn't imply  
15:23:47 2 anything.

15:23:47 3 A. No, no, but the the reasoning in the  
15:23:49 4 question implies that. But I I made a point of not  
15:23:51 5 thinking about other companies. I made a point of  
15:23:53 6 thinking about Google.

15:24:04 7 Q. How would you describe your relationship with  
15:24:06 8 Mr. Jobs?

15:24:07 9 A. Complicated. And and again, as I said, his  
15:24:13 10 death was very tragic for all of us, and I considered him  
15:24:16 11 a good friend.

15:24:18 12 Q. And how often did you, in the time period we're  
15:24:22 13 talking about, interact with him, either face to face or  
15:24:26 14 otherwise?

15:24:27 15 A. Well, in the while I was on the board it was  
15:24:30 16 relatively frequently, for a board member. But it was  
15:24:34 17 also not more frequently, because I would recuse myself  
15:24:38 18 from Google Apple issues. So for example, if there was a  
15:24:42 19 Google problem, Steve would be forced to call Alan and  
15:24:45 20 not me, because I had a two hat problem. And obviously I  
15:24:49 21 knew him socially and a little bit before, and I also saw  
15:24:52 22 him after I left the board as he became more ill.

15:24:55 23 So some you know, once a month kind of  
15:24:58 24 frequencies. Not weekly, but not yearly, if that's  
15:25:03 25 helpful.

15:25:04 1 Q. Did you ever have occasion to talk with him  
15:25:06 2 about his views regarding companies recruiting from each  
15:25:14 3 other in the Valley?

15:25:15 4 A. Well, I knew his view.

15:25:17 5 Q. Which was?

15:25:17 6 A. Which was that when you're in a partnership,  
15:25:19 7 you shouldn't do it.

15:25:21 8 Q. What do you mean by "partnership" now in that?

15:25:23 9 MR. RUBIN: Well, objection. Lacks foundation.

15:25:27 10 THE WITNESS: Again, I was trying I was  
15:25:28 11 trying to give you the context that because we were  
15:25:30 12 working together, it was inappropriate in his view for us  
15:25:34 13 to be calling in and hiring people. And and he would  
15:25:40 14 express this in unique Steve Jobs style.

15:25:44 15 BY MR. HEIMANN:

15:25:45 16 Q. Which was?

15:25:45 17 A. Loud. But a but a fair reading of Steve is  
15:25:49 18 he believed, for better or worse, that the world was a  
15:25:55 19 better place when you had a partnership, a collaboration,  
15:25:58 20 working together, whatever words you want to use, he  
15:26:01 21 believed that you should not be hiring each others', you  
15:26:05 22 know, technical people, and then cross fertilizing all  
15:26:08 23 that knowledge.

15:26:09 24 And I always believed, and I'll rather than  
15:26:13 25 explaining I'll say what I believe because because

15:26:15 1 Apple is so focused on unique intellectual property, it  
15:26:19 2 was it was my belief and is my belief, that Apple  
15:26:22 3 believed that if employees left, they would take some of  
15:26:27 4 that unique intellectual property in their heads with  
15:26:29 5 them. That is my opinion.

15:26:31 6 That's that may or may not be what he  
15:26:33 7 thought, but that's what I thought he thought.

15:26:36 8 Q. Now, I know we've covered some of this before,  
15:26:38 9 but I want to make sure I understand.

15:26:40 10 Was your understanding of Jobs' position that  
15:26:43 11 any company that Apple was friendly with in the way that  
15:26:46 12 you described it earlier would have fallen into this  
15:26:49 13 category of companies you shouldn't be recruiting from?

15:26:52 14 MR. RUBIN: Objection. Misstates prior  
15:26:53 15 testimony.

15:26:55 16 THE WITNESS: I I never asked myself the  
15:26:58 17 question of Steve's general view. But it's fair to  
15:27:02 18 extrapolate that if you had partnerships working together  
15:27:06 19 in different kinds of relationships, he would have  
15:27:09 20 extended that to others. I notice with some humor that  
15:27:12 21 we have such a list, from the words of their company,  
15:27:15 22 which they list as Adobe, Garmin, Google, Intuit,  
15:27:19 23 Microsoft Mac Division, and Nvidia, all of whom Apple had  
15:27:24 24 effective partnerships with of one kind or another.

25 //

15:27:27 1 BY MR. HEIMANN:

15:27:28 2 Q. But those are not the only companies on the  
15:27:30 3 list, right?

15:27:30 4 A. I'm just I'm just this is their list. I  
15:27:32 5 can't I didn't write this list. This is their  
15:27:34 6 opinion.

15:27:34 7 Q. I know, but since you're expressing an opinion  
15:27:36 8 on part of it, I'm asking you about the others as well.

15:27:40 9 There are others that don't have any such  
15:27:41 10 explanation for them, right?

15:27:43 11 A. Which ones?

15:27:45 12 Q. Tech Data.

15:27:47 13 A. Oh, there is a second list.

15:27:53 14 Q. Longer than the first list, right?

15:27:56 15 A. Well, again, reading the email without judging  
15:28:00 16 whether they should be on the list or not, Best Buy is  
15:28:02 17 their largest distributor, Fry's is their large  
15:28:06 18 distributor. Art is on the board of Genentech.  
15:28:09 19 Imagination, Ingram Micro, that is a distributor. JCrew,  
15:28:14 20 board member. Mac Zone, distributor; Microsoft Mac  
15:28:18 21 Division, major partner; Nvidia, partner; PC connection,  
15:28:22 22 PC Mall, distributors; Pixar, Steve's on the board of  
15:28:25 23 Pixar; Tech Data, distributor; Zones, I assume that is a  
15:28:30 24 distributor.

15:28:30 25 That is how I would read that message, if I

15:28:33 1 were internal to Apple.

15:28:43 2 Q. What would be the reason for Lucasfilm to be on  
15:28:46 3 their no call list?

15:28:48 4 A. As I indicated, I believe Steve was on the  
15:28:51 5 board of Lucasfilm and I

15:28:53 6 Q. You said Pixar a moment ago. You may be right.  
15:28:56 7 I don't know.

15:28:57 8 A. Well, you have Lucas I'm sorry. Did I  
15:29:01 9 misspeak?

15:29:03 10 Q. No. Pixar is on the list.

15:29:05 11 A. Pixar is on the list. Okay. Lucasfilm, no, I  
15:29:09 12 don't know. I don't know that Steve was involved with  
15:29:13 13 Lucasfilm. Maybe he was.

15:29:14 14 MR. HEIMANN: I'm told we are almost out of  
15:29:16 15 tape, so why don't we take a short break.

15:29:18 16 THE VIDEOGRAPHER: This is the end of Video  
15:29:20 17 No. 2. We're now off the record at 3:29.

15:29:22 18 (Recess was taken.)

15:31:04 19 THE VIDEOGRAPHER: We are now on the record at  
15:31:05 20 3:31. This is the beginning of Video No. 3.

15:31:08 21 BY MR. HEIMANN:

15:31:09 22 Q. Is it fair to say that Mr. Jobs made his views  
15:31:11 23 that we've been talking about widely known within the  
15:31:14 24 Valley?

15:31:15 25 MR. RUBIN: Objection. Vague.

15:31:18 1 THE WITNESS: I don't know that.

15:31:20 2 BY MR. HEIMANN:

15:31:21 3 Q. Well, surely you weren't the only person that  
15:31:23 4 was familiar with his views in that regard, were you?

15:31:27 5 MR. RUBIN: Objection. Calls for speculation.

15:31:28 6 THE WITNESS: As I said, I don't have any I  
15:31:30 7 don't have any independent knowledge of that. I think it  
15:31:32 8 is a reasonable presumption, given Steve's propensity for  
15:31:36 9 making his point known, but I don't have any independent  
15:31:40 10 knowledge of that.

15:31:40 11 BY MR. HEIMANN:

15:31:41 12 Q. Do you recall discussing his views with others  
15:31:42 13 in the Valley?

15:31:44 14 A. I certainly discussed it with Google people and  
15:31:46 15 Bill Campbell, but not others.

15:31:53 16 Q. When you communicated with Mr. Jobs by email,  
15:31:55 17 did he have more than one email that you used for him?

15:32:00 18 A. I believe only one, sjobs@apple.com.

15:32:05 19 Q. Let me ask you to look at Exhibit 448.

15:32:26 20 So this exhibit consists of a declaration from  
15:32:29 21 Mr. Edward Colligan, and then an attachment which is in  
15:32:33 22 the form of an email exchange. Actually two emails.

15:33:14 23 A. Okay.

15:33:14 24 Q. Have you seen this material before?

15:33:16 25 A. I have not.

15:33:18 1 Q. Do you know who Mr. Korrigan (sic) is?

15:33:20 2 A. Colligan.

15:33:23 3 Q. Colligan, I'm sorry.

15:33:24 4 A. I know who he is.

15:33:27 5 Q. Are you acquainted with him personally?

15:33:29 6 A. I don't believe I've ever met him. I may have

15:33:30 7 met him, but I don't remember what he looks like.

15:33:31 8 Q. Did you have any knowledge of the exchange that

15:33:33 9 he describes in his declaration at the time, or at or

15:33:36 10 about the time it took place?

15:33:40 11 A. No.

15:33:45 12 Q. Were you aware that Mr. Jobs had approached

15:33:48 13 companies in the Valley seeking agreements that each

15:33:53 14 company not recruit from the other?

15:33:55 15 MR. RUBIN: Objection. Lacks foundation; asked

15:33:59 16 and answered.

15:33:59 17 THE WITNESS: As I indicated, I was not

15:34:01 18 aware I was not aware of Steve's activities outside of

15:34:04 19 Google in this regard.

15:34:05 20 BY MR. HEIMANN:

15:34:19 21 Q. Let me ask you to take a look at Exhibit 449.

15:34:28 22 A. Is this something that would have gone to is

15:34:30 23 this part of the current trial?

15:34:32 24 MR. RUBIN: This is a declaration he made in

15:34:33 25 the current trial.



15:37:45 1 what he was upset about, but it must have been this.

15:37:48 2 BY MR. HEIMANN:

15:37:48 3 Q. How did you know he was upset about Rubinstein?

15:37:51 4 A. I recall Steve mentioning it in one of his  
15:37:54 5 discussions, but I don't remember discussing Palm. So

15:38:00 6 Q. All right.

15:38:04 7 A. Ah, okay. Dan Lyons was the creator of "The  
15:38:08 8 Secret Diary of Steve Jobs." Now we know who he is.

15:38:12 9 Yes. He wrote a satire of Steve, Dan Lyons, the author  
15:38:19 10 of this document. It is quite entertaining. I have a  
15:38:22 11 code name in "The Secret Diary of Steve Jobs." So

15:38:26 12 Q. You have a code name?

15:38:27 13 A. Yes. I don't remember what it was. But I  
15:38:28 14 remember

15:38:29 15 Q. I was going to ask you for it.

15:38:30 16 A. It is quite entertaining, so you should you  
15:38:34 17 should take a look at it when you get a chance.

15:38:36 18 Q. All right. Okay. I'm going to switch topics  
15:38:39 19 again.

15:38:42 20 At some point did Facebook become a problem or  
15:38:47 21 a concern for Google in connection with retaining  
15:38:50 22 employees at Google?

15:38:52 23 A. It did.

15:38:53 24 Q. And can you tell us when that happened or when  
15:38:55 25 it began?

15:39:00 1 A. I won't get the dates right. But somewhere  
15:39:03 2 around 2008 or 2009 Facebook began Facebook hired  
15:39:11 3 Sheryl Sandberg, who in perhaps 2006 or 2007, maybe  
15:39:17 4 2007, and Sheryl had built our recruiting organization,  
15:39:22 5 was an excellent recruiter, and as she went over to  
15:39:25 6 Facebook, many people left Google to work for her in jobs  
15:39:30 7 which they perceived as promotions.

15:39:33 8 There were also a number of engineering leaders  
15:39:36 9 who also went to Facebook, and it became and it was  
15:39:40 10 pretty clear that Facebook's management structure was  
15:39:44 11 being built out of executives coming out of Google, which  
15:39:47 12 is now a public company, Facebook was a private company.

15:40:02 13 Q. So how did Google respond?

15:40:04 14 A. Well, we had a series of internal discussions  
15:40:06 15 or arguments about what to do, and we I remember  
15:40:10 16 distinctly having the conversation about given that  
15:40:16 17 they were playing by a different set of rules, because  
15:40:19 18 they were offering equivalent salaries, but stock that in  
15:40:26 19 theory would be worth a great deal of money, they could  
15:40:29 20 make an offer to somebody and tell them it's going to be  
15:40:32 21 worth X million dollars.

15:40:34 22 And so I remember a series of conversations,  
15:40:37 23 which went something like this, what are we willing to do  
15:40:42 24 to counter these offers? And we concluded that we should

15:40:45 25

15:40:51 1

[REDACTED]

15:40:53 2

[REDACTED]

15:40:56 3

[REDACTED]

15:41:01 4

[REDACTED]

15:41:03 5

Q. And who all was involved in the conversations

15:41:07 6

about the strategy or tactics to deal.

15:41:09 7

With the problem?

15:41:11 8

A. [REDACTED]

15:41:13 9

[REDACTED]

15:41:18 10

[REDACTED]

15:41:21 11

[REDACTED]

15:41:26 12

[REDACTED]

15:41:29 13

[REDACTED]

15:41:32 14

[REDACTED]

15:41:36 15

[REDACTED]

15:41:42 16

[REDACTED].

15:41:45 17

[REDACTED]

15:41:48 18

[REDACTED]

15:41:52 19

Q. Was Bill Campbell involved in the discussions?

15:41:56 20

A. [REDACTED]

15:41:58 21

[REDACTED] [REDACTED]

15:42:02 22

[REDACTED]

15:42:09 23

Q. Let me ask you to take a look at Exhibit 660.

15:42:48 24

A. Okay.

15:42:49 25

Q. First of all, do you recognize this email

15:42:51 1 exchange?

15:42:53 2 A. Not really.

15:42:54 3 Q. But is it part of the conversation that you  
15:42:58 4 just described in general terms?

15:42:59 5 A. Yes. This would be an example of this  
15:43:02 6 conversation.

15:43:15 7 Q. And the principal email here is from Mr. Brin  
15:43:18 8 to the management committee and to Marissa Mayer, it  
15:43:23 9 appears to be, correct?

15:43:24 10 A. That's correct.

15:43:25 11 Q. And who was Ms. Mayer at the time?

15:43:27 12 A. So Marissa, who is now the CEO of Yahoo, was an  
15:43:31 13 important early executive and worked for Jonathan running  
15:43:34 14 many of the client groups. Sergey and Marissa had a very  
15:43:39 15 good working relationship, and I'm sure that he copied  
15:43:42 16 her because she was involved in the conversation with  
15:43:43 17 him.

15:43:44 18 Q. And as this email indicates, at least in part,  
15:43:47 19 this was a time by which Facebook was posing a concern  
15:43:53 20 for Google in terms of recruiting Google employees into  
15:43:58 21 Facebook; is that right?

15:44:00 22 A. That's correct.

15:44:00 23 Q. And if we go to Exhibit 608

15:44:36 24 A. Okay.

15:44:36 25 Q. is this more of the same in terms of the

16:15:05 1 amount, but there are a steady stream of people applying.  
16:15:08 2 We are being very strict on the Google non solicit. If  
16:15:12 3 you hear of any violation of the non solicit agreement,  
16:15:16 4 please let me know, and we will look into it  
16:15:19 5 immediately."

16:15:20 6 Now, I'll ask you again, did Google and  
16:15:23 7 Facebook reach a non solicit agreement between  
16:15:26 8 themselves?

16:15:28 9 MR. RUBIN: Objection. Lacks foundation.

16:15:29 10 THE WITNESS: As I've indicated before, to my  
16:15:31 11 knowledge, there there was not, is not, and was never  
16:15:36 12 a non solicit agreement. I do not know what she is  
16:15:39 13 referring to there.

16:15:39 14 BY MR. HEIMANN:

16:15:41 15 Q. Well, Mr. Rosenberg seemed to know. He  
16:15:44 16 responded, "My personal opinion is that I think you are  
16:15:46 17 putting too much weight in your view of the notion of  
16:15:49 18 non soliciting, as though soliciting in itself is the  
16:15:53 19 only thing that upsets people. Rather, it is the outcome  
16:15:56 20 of people going from one company to the other which is  
16:15:59 21 problematic."

16:16:00 22 Do you see that?

16:16:03 23 MR. MITTELSTAEDT: Object. Argumentative.

16:16:04 24 THE WITNESS: Again

16:16:05 25 MR. RUBIN: Same objection as before. Lacks

16:16:07 1 foundation; asked and answered.

16:16:08 2 THE WITNESS: You know, you are asking me to  
16:16:10 3 to parse a private conversation between Jonathan and  
16:16:12 4 Sheryl. I think you should just ask them.

16:16:17 5 BY MR. HEIMANN:

16:16:17 6 Q. Well, we'll get to that, but I'm trying to find  
16:16:20 7 out what your understanding and knowledge is of the  
16:16:22 8 topic.

16:16:23 9 MR. RUBIN: But he's not on the email. So this  
16:16:25 10 is really

16:16:26 11 THE WITNESS: But I have

16:16:28 12 MR. RUBIN: Beyond the witness' knowledge.

16:16:29 13 THE WITNESS: I have answered your question  
16:16:30 14 clearly.

16:16:31 15 BY MR. HEIMANN:

16:16:32 16 Q. Okay.

16:16:32 17 A. This is Jonathan complaining to Sheryl, and  
16:16:35 18 there is no non solicit agreement between the two  
16:16:40 19 companies, to my knowledge.

16:16:45 20 Q. Okay. Let me ask you to take a look next at  
16:18:04 21 Exhibit 674.

16:18:20 22 So we have now moved well forward in time.  
16:18:23 23 This is in 2010.

16:18:28 24 A. Okay.

16:18:29 25 Q. I want to focus your attention, if I can, on

16:18:31 1 the email that is from Patrick Pichette to Shona Brown  
16:18:40 2 and yourself, with a copy to Mr. Campbell.

16:18:42 3 A. Yes.

16:18:42 4 Q. And who was Mr. Pichette at the time?

16:18:46 5 A. He was and is the chief financial officer of  
16:18:48 6 the company.

16:18:49 7 Q. All right. And he is addresses a number of  
16:18:53 8 topics in this email. By the way, do you remember this  
16:18:57 9 email, by any chance? It is a little more current than  
16:19:00 10 the stuff I've been showing you up to now.

16:19:04 11 A. No. I do not.

16:19:05 12 Q. All right. Paragraph 3 over on the second  
16:19:07 13 page, involves, as he says it, "I wish to comment on the  
16:19:14 14 VP/director issue. Shona and we have discussed this  
16:19:20 15 and she knows I have a somewhat different approach on  
16:19:23 16 this topic."

16:19:24 17 Do you recall that issue at the time?

16:19:26 18 A. I'm sorry. Can you tell me which paragraph I'm  
16:19:28 19 looking at?

16:19:29 20 Q. Yes, it is in the second page of the email  
16:19:30 21 exchange.

16:19:30 22 A. Oh, I see it. Okay. I'm sorry. Ask your  
16:19:32 23 question again. Sorry.

16:19:33 24 Q. Yes. Well, first of all, you'll see the topic  
16:19:34 25 he is addressing in this portion of the email is the

16:19:37 1 VP/director issue, as he puts it. Why don't you take a  
16:19:42 2 moment to read through the substance there before I ask  
16:19:45 3 you any more.

16:19:51 4 A. Okay.

16:19:52 5 Q. Do you recall what the VP/director issue was at  
16:19:54 6 the time?

16:19:57 7 A. I don't, but I can infer infer what it is  
16:20:03 8 from the okay. Anyway

16:20:14 9 Q. All right.

16:20:14 10 A. I don't specifically know what he meant by  
16:20:17 11 VP/director issue.

16:20:18 12 Q. I think it will become apparent when we focus  
16:20:20 13 on some of the text here. The second bullet point reads,

16:20:23 14 [REDACTED]

16:20:27 15 [REDACTED]

16:20:29 16 [REDACTED]

16:20:34 17 [REDACTED]

16:20:37 18 [REDACTED]

16:20:39 19 First of all, do you understand what he's  
16:20:40 20 talking about there when he [REDACTED]

16:20:44 21 [REDACTED]

16:20:45 22 A. I do.

16:20:46 23 Q. What is that?

16:20:47 24 A. [REDACTED]

16:20:49 25 [REDACTED]



16:20:53 1 so I enforce that.

16:20:55 2

16:20:58 3

16:21:02 4

16:21:04 5

16:21:08 6

16:21:11 7

16:21:12 8

16:21:15 9

16:21:18 10

16:21:22 11

16:21:26 12

16:21:29 13 Q. Have you changed your mind?

16:21:30 14 A. No.

16:21:31 15 Q. He goes on to say, skipping some of this, "What  
16:21:34 16 matters is internal equity, not titles." What is your  
16:21:38 17 understanding of that? Meaning, what is your  
16:21:43 18 understanding of what he is saying there?

16:21:54 19 A. I I can tell you how I would interpret that  
16:21:56 20 paragraph. I would interpret that that as long as the  
16:21:59 21 people are correctly understood sorry.

16:22:01 22

16:22:03 23

16:22:05 24

16:22:09 25

16:22:11 1

16:22:14 2

16:22:18 3

16:22:19 4

16:22:21 5

16:22:25 6

16:22:28 7

16:22:30 8

16:22:34 9

16:22:36 10

16:22:39 11

16:22:43 12

16:22:44 13

16:22:47 14

16:22:49 15

16:22:52 16

16:22:54 17

16:22:54 18

16:22:57 19

16:23:01 20

16:23:04 21

16:23:15 22

16:23:34 23

16:23:42 24

16:23:42 25

[REDACTED]

So the way you solve this problem is you have them have internal equity, that is they are in the same salary range, [REDACTED]

Q. Okay. And do you what is the reference to internal equity, or did you already

A. I read that as internal equity between different dissimilar functions.

Q. Okay.

A. So internal equity meaning an engineering executive needs to be ranked against a sales executive. So how do you rank them? Which one is more important? How do you deal with their comp? It is a classic HR ranking problem.

Q. What was the big bang?

A. I believe

Q. Not the universal big bang.

16:23:44 1 A. I believe the big bang refers to a combination  
16:23:48 2 of salary increases and and stock increases that were  
16:23:51 3 coincident after the stock market crash of 2008.

16:23:59 4 Q. I'm sorry. The last part of the question

16:24:01 5 A. So the stock market crashed in 2008. Our stock  
16:24:04 6 fell to \$260. We, and in particular I, drove a process  
16:24:11 7 to do a stock repricing and compensation look during that  
16:24:14 8 period, which I believe is what you're referring to by  
16:24:16 9 the big bang.

16:24:17 10 Q. What was the period, then, that the big bang  
16:24:20 11 was put into effect?

16:24:21 12 A. You'd have to show me the emails to get the  
16:24:23 13 dates, but it is after the stock market crashed.

16:24:26 14 Q. Well

16:24:29 15 A. My recollection is roughly the fall of 2008 and  
16:24:32 16 past that.

16:24:52 17 Q. Let me see if I have documents to deal with  
16:24:54 18 this. If I told you I think it is 2010, would I be way  
16:25:01 19 off the mark?

16:25:07 20 A. I may be confusing the stock market repricing  
16:25:10 21 and then a subsequent salary increase, which is why  
16:25:11 22 wanted to get the precise dates. I could summarize in  
16:25:15 23 general, if that would be helpful.

16:25:17 24 Q. I'm thinking about, to try and shorten this up  
16:25:19 25 a little bit what I recall was something like a 10

16:28:53 1 needed to increase our cash compensation, this has

16:28:57 2 [REDACTED]

16:29:00 3 [REDACTED]

16:29:03 4 [REDACTED]

16:29:07 5 Q. So I'm fascinated by that. You have some of  
16:29:10 6 the smartest people on the planet. In fact you've made  
16:29:13 7 every effort to hire

16:29:13 8 A. Yes.

16:29:13 9 Q. very smart people. How do they not get it?

16:29:16 10 A. Because it involves financial judgment which  
16:29:19 11 they are not trained for. They don't understand  
16:29:21 12 Black Scholes algorithm. They didn't do MBA and finance.  
16:29:26 13 They don't have Ph.D.s in financial accounting. They are  
16:29:29 14 engineers. They're very, very intelligent people. But  
16:29:32 15 in any case, I'm simply representing Laszlo's position.  
16:29:36 16 Laszlo showed up with this analysis, which you can see  
16:29:40 17 summarized here, and based on his detailed analysis, the  
16:29:43 18 summary as we eventually did it.

16:29:46 19 Q. Was the stock repricing in part intended to  
16:29:49 20 meet the Facebook concern, for example?

16:29:52 21 A. Not really. [REDACTED]

16:29:57 22 [REDACTED]

16:30:02 23 [REDACTED] [REDACTED]

16:30:08 24 [REDACTED]

16:30:12 25 [REDACTED] [REDACTED] [REDACTED]

16:30:15 1

[REDACTED]

16:30:18 2

[REDACTED]

16:30:23 3

[REDACTED]

16:30:28 4

Q. So, now focusing briefly on this email from

16:30:36 5

Prasad Setty to yourself

16:30:38 6

A. Yes.

16:30:38 7

Q. and others; who was Mr. Setty at the time?

16:30:40 8

A. Prasad is the analyst who worked for Laszlo,

16:30:44 9

who did all the financial modeling around compensation.

16:30:48 10

So he would be a true financial expert over compensation.

16:30:52 11

Q. And focusing on paragraph 5 at page 2, "What

16:30:57 12

impact will this have on the Valley," are you with me?

16:31:01 13

A. I see it.

16:31:02 14

Q. The first point that he makes there is, "May

16:31:04 15

put pressure on pay for coveted technical jobs and

16:31:07 16

increased pay systematically for these jobs." Do you see

16:31:11 17

that?

16:31:11 18

A. I do.

16:31:12 19

Q. Was that a subject of discussion that you

16:31:14 20

recalled at the time?

16:31:14 21

A. I'm sure we talked about it.

16:31:16 22

Q. In any event did it have that effect?

16:31:22 23

A. I'm sure it did.

16:31:34 24

Q. Let me ask you to take a look at Exhibit 621.

16:31:39 25

We are in the home stretch, for anybody who cares.

16:31:42 1 MR. RUBIN: Like ten minutes?

16:31:50 2 MR. HEIMANN: No. You'll need a restroom break

16:31:52 3 to be sure. Let's do it now.

16:31:57 4 THE VIDEOGRAPHER: We are now off the record at

16:31:58 5 4:32.

16:39:19 6 (Recess was taken.)

16:39:21 7 THE VIDEOGRAPHER: We are now on the record at

16:39:23 8 4:39.

16:39:26 9 BY MR. HEIMANN:

16:39:27 10 Q. I'm not going to bother with that one,

16:39:29 11 Mr. Schmidt.

16:39:30 12 A. Okay.

16:39:32 13 Q. During the time period we've been talking about

16:39:37 14 when Google had in place the do not call list and so

16:39:40 15 forth, did anyone ever question the legality of that

16:39:43 16 policy?

16:39:48 17 A. I don't believe I don't I don't recall.

16:39:51 18 I have no recollection of any such discussion.

16:39:53 19 Q. Did you ever seek legal advice from Google's

16:39:56 20 general counsel about it?

16:39:59 21 MR. RUBIN: Objection. I think even the answer

16:40:01 22 to that question, if it were it would be privileged.

16:40:05 23 MR. HEIMANN: Not if it's no.

16:40:07 24 MR. RUBIN: All right. Then let's just take a

16:40:08 25 second.

16:40:09 1 MR. HEIMANN: Sure.

16:40:09 2 (Discussion off the record.)

16:40:17 3 BY MR. HEIMANN:

16:40:17 4 Q. Back on the record.

16:40:18 5 A. The answer to your question is, no.

16:40:23 6 MR. HEIMANN: Is that on the record?

16:40:25 7 THE REPORTER: Thank you.

16:40:25 8 BY MR. HEIMANN:

16:40:25 9 Q. Do you know whether or not Google's general  
16:40:27 10 counsel was aware of the policy?

16:40:36 11 MR. RUBIN: Objection. Lacks foundation.

16:40:37 12 THE WITNESS: Do I know? I have no knowledge  
16:40:38 13 one way or the other.

16:40:39 14 BY MR. HEIMANN:

16:40:41 15 Q. During the time period involved, did you ever  
16:40:44 16 consider that the policy or practice might have an  
16:40:49 17 adverse impact on employees in the Valley?

16:41:00 18 A. Well, I certainly thought about the general  
16:41:01 19 question of impact, yes.

16:41:04 20 Q. And did you ever consider that it might have an  
16:41:06 21 adverse impact on compensation for employees in the tech  
16:41:10 22 sector in the Silicon Valley?

16:41:12 23 A. I don't believe it did, so so the answer is,  
16:41:16 24 I I thought about it and decided it didn't, in my  
16:41:20 25 opinion.

16:41:10 1 I, Rosalie A. Kramm, Certified Shorthand  
16:41:10 2 Reporter licensed in the State of California, License No.  
16:41:10 3 5469, hereby certify that the deponent was by me first  
16:41:10 4 duly sworn and the foregoing testimony was reported by me  
16:41:10 5 and was thereafter transcribed with computer aided  
16:41:10 6 transcription; that the foregoing is a full, complete,  
16:41:10 7 and true record of said proceedings.

16:41:10 8 I further certify that I am not of counsel or  
16:41:10 9 attorney for either of any of the parties in the  
16:41:10 10 foregoing proceeding and caption named or in any way  
16:41:10 11 interested in the outcome of the cause in said caption.

16:41:10 12 The dismantling, unsealing, or unbinding of the  
16:41:10 13 original transcript will render the reporter's  
16:41:10 14 certificates null and void.

16:41:10 15 In witness whereof, I have hereunto set my hand  
16:41:10 16 this day: February 23, 2013.

16:41:10 17   X   Reading and Signing was requested.

16:41:10 18            Reading and Signing was waived.

16:41:10 19            Reading and signing was not requested.

16:41:10 20

16:41:10 21

16:41:10 22

\_\_\_\_\_  
ROSALIE A. KRAMM

16:41:10 23

CSR 5469, RPR, CRR

16:41:10 24

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